



TEXAS RACING COMMISSION

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Texas Racing Commission
Wednesday, April 13, 2022
10:30 a.m.
John H. Reagan Building, Room 120
1400 Congress Avenue
Austin, Texas 78701

AGENDA

I. CALL TO ORDER

Roll Call

II. PUBLIC COMMENT

III. STAFF REPORTS

A. Discussion and consideration of staff reports regarding administrative matters:

1. Executive Director's Report
2. Health & Safety Subcommittee Report
3. Budget and Finance Reports
4. Enforcement Report

IV. STAFF ACTIONS

A. Horse Racing Integrity and Safety Authority (HISA). Discussion, consideration, and possible action to remit fees to HISA on or before May 2, 2022, pursuant to 15 USC §3052(f)(2).

V. PROCEEDINGS ON RULES

A. Discussion and possible action to publish proposed rule repeal in the Texas Register:

1. 16 TAC §309.13, Subchapter A, Division 1, Supplemental Fee

B. Discussion and possible action to publish proposed rule amendment in the Texas Register:

1. 16 TAC §303.42, Subchapter B, Approval of Charity Race Days

C. Discussion and possible action to publish proposed rule amendments in the Texas Register:

1. 16 TAC §301.1(74), Definition of Specimen
2. 16 TAC §319.3, Subchapter A, Medication Restricted
3. 16 TAC §319.301, Subchapter D, Division 1, Testing Authorized

VI. PROCEEDINGS ON THE HORSE INDUSTRY ESCROW ACCOUNT

A. Staff report on breed registry requests for funding from the Horse Industry Escrow Account approved by the Executive Director, as of March 17, 2022.

B. Discussion and possible action to allocate funds in the Horse Industry Escrow Account to state horse breed registries for events to further the horse industry under 16 TAC, Chapter 303, Subchapter G, as of March 17, 2022.

1. Requests by the Texas Paint Horse Breeders Association
2. Requests by the Texas Quarter Horse Association

VII. PROCEEDINGS ON RACETRACKS

A. Discussion and possible action to designate a May 1 through June 30, 2022 application period for proposed race dates during Calendar Years 2023-2027, including charity race dates, under 16 TAC §303.41. Race dates will be scheduled for presentation at the Commission meeting in August 2022.

VIII. EXECUTIVE SESSION (AS NEEDED)

The following items may be discussed and considered in executive session or open meeting, with any action taken in the open meeting:

A. Under Texas Government Code §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation, or regarding a settlement offer.

B. Under Texas Government Code §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.

C. Under Texas Occupational Code §2025.005, the Commission may enter an executive session to review security plans and management, concession, and totalisator contracts.

IX. NEXT COMMISSION MEETING

Wednesday, June 8, 2022, 10:30 a.m.

X. ADJOURN

GENERAL APPROPRIATIONS ACT FOR THE 2022-23 BIENNIUM

**Eighty-seventh Texas Legislature
Regular Session, 2021**

Text of Conference Committee Report on Senate Bill No. 1
(incorporating other bills that affect 2022-23 biennial appropriations)



Editor's Note: Senate Bill No. 1 Conference Committee Report (Eighty-seventh Legislature, Regular Session) appropriation figures have been adjusted in this publication to incorporate certain Article IX (General Provisions) appropriations into relevant agency bill patterns; other legislation and resolutions enacted by the 87th Legislature, including those of the Second and Third Called Sessions, which affect appropriations; non-substantive technical corrections and/or reconciling adjustments; and the Governor's Vetoes. Conforming changes to agency riders and informational items have also been made. Complete copies of legislation affecting Senate Bill No. 1 can be found at www.capitol.texas.gov.

www.lbb.texas.gov

BOARD OF PLUMBING EXAMINERS
(Continued)

A.1.1. Strategy: EXAMINE AND LICENSE PLUMBERS

Output (Volume):

Number of New Licenses, Registrations and Endorsements Issued	12,000	13,000
Number of Licenses, Registrations and Endorsements Renewed	43,200	43,700

A.1.3. Strategy: INSPECTIONS AND ENFORCEMENT

Output (Volume):

Total Number of Compliance Checks Performed	7,500	9,000
Number of Investigations Conducted	875	900
Number of Complaints Resolved	975	1,000

Explanatory:

Percentage of Compliance Checks Found with Violations	3%	3%
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2. Surplus Property. Notwithstanding Article IX, §8.03. Surplus Property, one hundred percent of the receipts to the Board of Plumbing Examiners from the sale of scrap metal is appropriated to the Board for the purpose of providing materials necessary to conduct licensing examinations during the biennium in which the receipts are received.

¹ Incorporates Article IX, §18.08, of this Act, due to enactment of HB 636, 87th Legislature, Regular Session, relating to the continuation and functions of the Texas State Board of Plumbing Examiners, resulting in increases of \$118,372 in fiscal year 2022 and \$110,572 in fiscal year 2023 out of General Revenue and 3.0 FTEs each fiscal year of the biennium.

RACING COMMISSION

	For the Years Ending	
	August 31, 2022	August 31, 2023
Method of Financing:		
GR Dedicated - Texas Racing Commission Account No. 597	\$ 3,715,249	\$ 3,492,496
Texas-bred Incentive Fund No. 327, estimated	<u>\$ 3,130,000</u>	<u>\$ 3,130,000</u>
Total, Method of Financing	<u>\$ 6,845,249</u>	<u>\$ 6,622,496</u>
Other Direct and Indirect Costs Appropriated Elsewhere in this Act	\$ 1,179,366	\$ 1,193,554
This bill pattern represents an estimated 21% of this agency's estimated total available funds for the biennium.		
Number of Full-Time-Equivalents (FTE):	39.3	39.3
Schedule of Exempt Positions:		
Executive Director, Group 3	\$137,367	\$137,367
Items of Appropriation:		
A. Goal: ENFORCE RACING REGULATION		
Enforce Racing Regulations in Texas.		
A.1.1. Strategy: LICENSE/REGULATE RACETRACKS	\$ 370,563	\$ 370,563
Provide Regulatory and Enforcement Services to Racetrack Owners.		
A.2.1. Strategy: TEXAS BRED INCENTIVE PROGRAM	3,130,000	3,130,000
Allocate Texas Bred Funds. Estimated and Nontransferable.		
A.3.1. Strategy: SUPERVISE & CONDUCT LIVE RACES	436,021	436,021
Supervise the Conduct of Racing through Enforcement and Monitoring.		
A.3.2. Strategy: MONITOR LICENSEE ACTIVITIES	317,637	317,637
Monitor Occupational Licensee Activities.		
A.4.1. Strategy: INSPECT & PROVIDE EMERGENCY CARE	339,577	339,577
Inspect and Provide Emergency Care.		
A.4.2. Strategy: ADMINISTER DRUG TESTS	<u>197,327</u>	<u>197,327</u>
Total, Goal A: ENFORCE RACING REGULATION	\$ 4,791,125	\$ 4,791,125

RACING COMMISSION
(Continued)

B. Goal: REGULATE PARTICIPATION

Regulate the Participation in Racing.

B.1.1. Strategy: OCCUPATIONAL LICENSING PROGRAM	\$	342,871	\$	342,871
Administer the Occupational Licensing Program through Enforcement.				
B.1.2. Strategy: TEXAS.GOV		13,323		13,324
Texas.gov. Estimated and Nontransferable.				

Total, Goal B: REGULATE PARTICIPATION	\$	356,194	\$	356,195
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C. Goal: REGULATE PARI-MUTUEL WAGERING

Regulate Pari-mutuel Wagering in Texas.

C.1.1. Strategy: MONITOR WAGERING AND COMPLIANCE	\$	280,866	\$	280,866
Regulate Pari-mutuel Wagering & Conduct Wagering Compliance Inspection.				

D. Goal: INDIRECT ADMINISTRATION

D.1.1. Strategy: CENTRAL ADMIN & OTHER SUPPORT SVCS	\$	870,243	\$	696,055
Central Administration and Other Support Services.				
D.1.2. Strategy: INFORMATION RESOURCES		546,821		498,255

Total, Goal D: INDIRECT ADMINISTRATION	\$	1,417,064	\$	1,194,310
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Grand Total, RACING COMMISSION	\$	6,845,249	\$	6,622,496
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Object-of-Expense Informational Listing:

Salaries and Wages	\$	2,539,571	\$	2,588,287
Other Personnel Costs		84,464		84,465
Professional Fees and Services		314,149		270,886
Consumable Supplies		12,000		12,000
Utilities		30,000		30,000
Travel		173,771		173,771
Rent - Building		50,279		0
Rent - Machine and Other		4,850		4,850
Other Operating Expense		506,165		328,237
Grants		3,130,000		3,130,000

Total, Object-of-Expense Informational Listing	\$	6,845,249	\$	6,622,496
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Estimated Allocations for Employee Benefits and Debt Service Appropriations Made Elsewhere in this Act:

Employee Benefits

Retirement	\$	156,443	\$	157,225
Group Insurance		689,405		707,105
Social Security		152,903		153,667
Benefits Replacement		1,408		1,166

Total, Estimated Allocations for Employee Benefits and Debt Service Appropriations Made Elsewhere in this Act	\$	1,000,159	\$	1,019,163
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1. Performance Measure Targets. The following is a listing of the key performance target levels for the Racing Commission. It is the intent of the Legislature that appropriations made by this Act be utilized in the most efficient and effective manner possible to achieve the intended mission of the Racing Commission. In order to achieve the objectives and service standards established by this Act, the Racing Commission shall make every effort to attain the following designated key performance target levels associated with each item of appropriation.

	<u>2022</u>			<u>2023</u>
A. Goal: ENFORCE RACING REGULATION				
Outcome (Results/Impact):				
Percentage of Investigations (Individuals) Resulting in Disciplinary Action		95%		95%
Percentage of Licensees with No Recent Violations		97%		97%
Percent of Race Horses that Sustain a Catastrophic Injury		0.14%		0.14%
Percent of Greyhounds that Sustain a Catastrophic Injury		0.1%		0.1%

RACING COMMISSION
(Continued)

A.1.1. Strategy: LICENSE/REGULATE RACETRACKS		
Output (Volume):		
Number of Racetrack Inspections	12	12
Explanatory:		
Number of Horse Tracks Regulated	7	7
Number of Greyhound Tracks Regulated	2	2
A.2.1. Strategy: TEXAS BRED INCENTIVE PROGRAM		
Output (Volume):		
Number of Texas Bred Awards for Horses	4,230	4,230
Number of Texas Bred Awards for Greyhounds	187	187
A.3.1. Strategy: SUPERVISE & CONDUCT LIVE RACES		
Output (Volume):		
Number of Occupational Licenses Suspended or Revoked	101	101
A.3.2. Strategy: MONITOR LICENSEE ACTIVITIES		
Output (Volume):		
Number of Investigations Completed	100	100
A.4.1. Strategy: INSPECT & PROVIDE EMERGENCY CARE		
Output (Volume):		
Number of Horses Inspected Pre-race	12,118	12,118
Number of Greyhounds Inspected Pre-race	394	394
B. Goal: REGULATE PARTICIPATION		
B.1.1. Strategy: OCCUPATIONAL LICENSING PROGRAM		
Output (Volume):		
Number of New Occupational Licenses Issued	1,800	1,800
Number of Occupational Licenses Renewed	4,000	4,000
C. Goal: REGULATE PARI-MUTUEL WAGERING		
Outcome (Results/Impact):		
Percentage of Compliance Audits Passed	97%	97%
C.1.1. Strategy: MONITOR WAGERING AND COMPLIANCE		
Explanatory:		
Total Pari-Mutuel Handle (in Millions)	255	255
Total Take to the State Treasury from Pari-Mutuel Wagering on Live and Simulcast Races	2,568,224	2,568,224

- 2. Texas Bred Incentive Program Receipts.** The amounts appropriated above in Strategy A.2.1, Texas Bred Incentive Program, are estimated amounts set aside by the Texas Racing Act pursuant to Occupations Code §§ 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program. Any additional revenue set aside by the Texas Racing Act pursuant to Occupations Code §§ 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program (estimated to be \$0) is appropriated to the Racing Commission in Strategy A.2.1, Texas Bred Incentive Program, in each fiscal year of the 2022-23 biennium.

None of the funds appropriated above for Texas Bred Incentive Program Awards may be expended for payments to a member serving on the commission. The Racing Commission shall take all necessary steps to ensure compliance with this provision.

3. Criminal History Checks and Background Checks.

- a. Out of the funds appropriated above in Strategy B.1.1, Occupational Licensing Program, \$90,000 in fiscal year 2022 and \$90,000 in fiscal year 2023 are appropriated to the Racing Commission for the purpose of reimbursing the Department of Public Safety (DPS), Federal Bureau of Investigation (FBI), and/or any other entity authorized to conduct criminal history background checks for costs incurred in conducting criminal history checks or background checks on individuals seeking to transfer ownership interest in an existing racetrack license on Racing Commission license applicants and renewals. Any additional revenue received from occupational license fees to cover the costs of criminal history checks or background checks (estimated to be \$0) is hereby appropriated to the Racing Commission for the purpose of reimbursing the DPS, FBI, and/or any other entity authorized to conduct criminal history background checks.
- b. Before May 31, 2022, the Racing Commission shall submit a report to the Legislative Budget Board, in a format prescribed by the Legislative Budget Board, that details the amount collected and expended on criminal history checks and background checks to date and the amount the agency is projecting to collect and expend on criminal history checks and background checks for the remainder of the 2022-23 biennium.

RACING COMMISSION

(Continued)

- c. Any appropriation authority identified in subsection (a) of this rider not used for criminal history checks or background checks shall be lapsed by the Racing Commission.

4. Contingent Appropriation: New Horse Racetrack or Reopening Horse Racetrack and Accredited Texas Bred Program.

- a. In addition to the amounts appropriated above, the Texas Racing Commission is appropriated \$315,950 out of funds collected by the agency and deposited to GR Dedicated-Texas Racing Commission Account No. 597 during each fiscal year of the 2022-23 biennium, in the following amounts for each new horse racetrack that begins operation for the first time during the biennium or for each reopening horse racetrack that initiates operations again during the biennium (estimated to be one new horse racetrack or reopening horse racetrack) contingent upon the Texas Racing Commission assessing fees sufficient to generate, in addition to revenue requirements elsewhere in this Act, during the 2022-23 biennium, \$423,970 for fiscal year 2022 and \$424,570 for fiscal year 2023 for each new horse racetrack or each reopening horse racetrack in excess of \$4,353,479 in fiscal year 2022 and \$4,353,479 in fiscal year 2023 (Object Codes 3188, 3189, 3190, 3196, and 3200) contained in the Comptroller of Public Accounts' Biennial Revenue Estimate for fiscal years 2022 and 2023:

- (1) \$97,000 in Strategy A.3.1, Supervise and Conduct Live Races;
- (2) \$54,000 in Strategy A.3.2, Monitor Licensee Activities;
- (3) \$65,200 in Strategy A.4.1, Inspect and Provide Emergency Care;
- (4) \$19,750 in Strategy A.4.2, Administer Drug Tests;
- (5) \$35,000 in Strategy B.1.1, Occupational Licensing Program;
- (6) \$45,000 in Strategy C.1.1, Monitor Wagering and Compliance.

Also, the "Number of Full-Time-Equivalents (FTE)" figure indicated above shall be increased by 5.0 FTEs in each fiscal year for each new horse racetrack that begins operations for the first time during the biennium or for each reopening horse racetrack that initiates operations again during the biennium contingent upon the Texas Racing Commission generating the amount of revenue indicated above for each new horse racetrack. The Texas Racing Commission upon completion of necessary actions to assess or increase such additional revenue shall furnish copies of the Texas Racing Commission's minutes and other information supporting the estimated revenues to be generated for the 2022-23 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purpose. For informational purposes, the amount of increased revenue identified above reflects amounts sufficient to cover direct appropriations of \$631,900 and other direct and indirect costs (estimated to be \$216,640 for the 2022-23 biennium).

- b. In addition to amounts appropriated above out of the Texas-bred Incentive Fund No. 327, the Texas Racing Commission is appropriated in Strategy A.2.1, Texas Bred Incentive Program, revenue set aside by the Texas Racing Act pursuant to Occupations Code §§ 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program that is collected by the agency from each new horse racetrack that begins operations for the first time in the 2022-23 biennium or for each reopening horse racetrack that initiates operations again during the 2022-23 biennium in an amount not to exceed \$334,477 from Texas-bred Incentive Fund No. 327 each year for each new horse racetrack. Any appropriations from revenue collected by the agency from new horse racetracks for the Texas Bred Incentive Program during the 2022-23 biennium may be used only for that purpose and are not transferable to any other strategy.
- c. For the purposes of this contingency rider, a "reopening horse racetrack" is a horse racetrack that has not operated live or simulcast race operations for 365 or more consecutive days prior to the reopening date for which live or simulcast operations are to be initiated again. Additionally, the reopening horse racetrack cannot have ceased operations during the same biennium in which it initiates operations again.

5. Contingent Appropriation: New Racetrack Application. All fees collected to cover the cost of the racetrack application process to GR Dedicated - Texas Racing Commission Account No. 597 (Object Code 3191) (estimated to be \$0 each fiscal year), are appropriated to Strategy A.1.1, License and Regulate Racetracks. Any appropriations from revenue collected by the agency from

RACING COMMISSION

(Continued)

new racetrack applications shall be used only for the racetrack application review process for those racetracks that have a scheduled hearing before the State Office of Administrative Hearings or the Texas Racing Commission during the 2022-23 biennium and are not transferable to any other strategy.

6. Contingent Appropriation: Additional Live Race Days Added beyond the Base of 146 Days Each Fiscal Year to the Horse Race Date Calendar and Accredited Texas Bred Program.

- a. In addition to the amounts appropriated above, the Texas Racing Commission is appropriated \$3,501 for each additional live horse race day added beyond the base of 146 days to the horse race date calendar in each fiscal year out of funds collected by the agency and deposited to GR Dedicated-Texas Racing Commission Account No. 597 during each fiscal year of the 2022-23 biennium (estimated to be one additional race day). This appropriation is contingent upon the Texas Racing Commission assessing fees sufficient to generate, in addition to revenue requirements elsewhere in this Act, during the 2022-23 biennium, \$5,346 for fiscal year 2022 and \$5,358 for fiscal year 2023 for each additional live race day added beyond the base of 146 days to the horse race date calendar in each fiscal year during the 2022-23 biennium in excess of \$4,353,479 in fiscal year 2022 and \$4,353,479 in fiscal year 2023 (Object Codes 3188, 3189, 3190, 3196, and 3200) contained in the Comptroller of Public Accounts' Biennial Revenue Estimate for fiscal years 2022 and 2023:

- (1) \$1,255 in Strategy A.3.1, Supervise and Conduct Live Races;
- (2) \$413 in Strategy A.3.2, Monitor Licensee Activities;
- (3) \$1,175 in Strategy A.4.1, Inspect and Provide Emergency Care;
- (4) \$357 in Strategy A.4.2, Administer Drug Tests;
- (5) \$301 in Strategy B.1.1, Occupational Licensing Program.

Also, the "Number of Full-Time-Equivalents (FTE)" figure indicated above is increased by 0.1 FTEs for each live horse race day granted that exceeds the base of 146 days on the horse race date calendar in each fiscal year contingent upon the Texas Racing Commission generating the amount of revenue indicated above. The Texas Racing Commission upon completion of necessary actions to assess or increase such additional revenue shall furnish copies of the Texas Racing Commission's minutes and other information supporting the estimated revenues to be generated for the 2022-23 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purpose. For informational purposes, the amount of increased revenue identified above reflects amounts sufficient to cover direct appropriations of \$7,002 and other direct and indirect costs (estimated to be \$3,702 for the 2022-23 biennium).

- b. In addition to amounts appropriated above out of the Texas-bred Incentive Fund No. 327, the Texas Racing Commission is appropriated in Strategy A.2.1, Texas Bred Incentive Program, revenue set aside by the Texas Racing Act pursuant to Occupations Code §§ 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program that is collected by the agency, in an amount not to exceed \$2,275 from Texas-bred Incentive Fund No. 327 for each additional live horse race day added beyond the base of 146 days during each fiscal year to the horse race date calendar in the 2022-23 biennium. Any appropriations from revenue collected by the agency for the Texas Bred Incentive Program during the 2022-23 biennium may be used only for that purpose and are not transferable to any other strategy.

7. Contingent Appropriation: Additional Live Race Days Added beyond the Base of 36 Days Each Fiscal Year to the Greyhound Race Date Calendar and Accredited Texas Bred Program.

- a. In addition to the amounts appropriated above, the Texas Racing Commission is appropriated \$2,564 for each additional live greyhound race day added beyond the base of 36 days to the greyhound race date calendar in each fiscal year out of funds collected by the agency and deposited to GR Dedicated-Texas Racing Commission Account No. 597 during each fiscal year of the 2022-23 biennium (estimated to be one additional race day). This appropriation is contingent upon the Texas Racing Commission assessing fees sufficient to generate, in addition to revenue requirements elsewhere in this Act, during the 2022-23 biennium, \$2,837 for fiscal year 2022 and \$2,837 for fiscal year 2023 for each additional live race day added beyond the base of 36 days to the greyhound race date calendar in each fiscal year during the

RACING COMMISSION
(Continued)

2022-23 biennium in excess of \$4,353,479 in fiscal year 2022 and \$4,353,479 in fiscal year 2023 (Object Codes 3188, 3189, 3190, 3196, and 3200) contained in the Comptroller of Public Accounts' Biennial Revenue Estimate for fiscal years 2022 and 2023:

- (1) \$1,255 in Strategy A.3.1, Supervise and Conduct Live Races;
- (2) \$413 in Strategy A.3.2, Monitor Licensee Activities;
- (3) \$595 in Strategy A.4.1, Inspect and Provide Emergency Care;
- (4) \$301 in Strategy B.1.1, Occupational Licensing Program.

Also, the "Number of Full-Time-Equivalents (FTE)" figure indicated above is increased by 0.1 FTEs for each live greyhound race day granted that exceeds the base of 36 days on the greyhound race date calendar in each fiscal year contingent upon the Texas Racing Commission generating the amount of revenue indicated above. The Texas Racing Commission upon completion of necessary actions to assess or increase such additional revenue shall furnish copies of the Texas Racing Commission's minutes and other information supporting the estimated revenues to be generated for the 2022-23 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purpose. For informational purposes, the amount of increased revenue identified above reflects amounts sufficient to cover direct appropriations of \$5,128 and other direct and indirect costs (estimated to be \$546 for the 2022-23 biennium).

- b. In addition to amounts appropriated above out of the Texas-bred Incentive Fund No. 327, the Texas Racing Commission is appropriated in Strategy A.2.1, Texas Bred Incentive Program, revenue set aside by the Texas Racing Act pursuant to Occupations Code §§ 2028.101, 2028.103, 2028.105, 2028.154, and 2028.202 for the Texas Bred Incentive Program that is collected by the agency, in an amount not to exceed \$75 from Texas-bred Incentive Fund No. 327 for each additional day added beyond the base of 36 days during each fiscal year to the greyhound race date calendar in the 2022-23 biennium. Any appropriations from revenue collected by the agency for the Texas Bred Incentive Program during the 2022-23 biennium may be used only for that purpose and are not transferable to any other strategy.

8. Sunset Contingency.¹ Funds appropriated above for fiscal year 2023 for the Racing Commission are made contingent on the continuation of the Racing Commission by the Eighty-seventh Legislature, Regular Session, 2021. In the event that the agency is not continued, the funds appropriated above for fiscal year 2022, or as much thereof as may be necessary, are to be used to provide for the phase out of the agency operations.

¹ SB 713, 87th Legislature, Regular Session, relating to the sunset review process and certain governmental entities subject to that process, passed and was enacted, resulting in the continuation of the Commission through September 1, 2027.

SECURITIES BOARD

	For the Years Ending	
	August 31, 2022	August 31, 2023
Method of Financing:		
General Revenue Fund	\$ 7,653,507	\$ 7,653,508
Total, Method of Financing	\$ 7,653,507	\$ 7,653,508
Other Direct and Indirect Costs Appropriated Elsewhere in this Act	\$ 2,431,912	\$ 2,446,129
This bill pattern represents an estimated 100% of this agency's estimated total available funds for the biennium.		
Number of Full-Time-Equivalents (FTE):	92.0	92.0
Schedule of Exempt Positions:		
Securities Commissioner, Group 5	\$172,087	\$172,087



TEXAS RACING COMMISSION

TEXAS RACING COMMISSION

STRATEGIC PLAN BRIEF

MARCH 31, 2022



AGENDA

TEXAS RACING COMMISSION

- Challenges & Opportunities
- Strategic Plan Timeline
- Vision Statement
- Mission Statement
- Goals & Strategies
- Performance Measures
- Fiscal & Legislative Initiatives
- Strategy Roadmap



VISION

TEXAS RACING COMMISSION

We will be the best state agency in Texas

and

the most professional and customer-oriented

Racing Commission in America.



MISSION STATEMENT

TEXAS RACING COMMISSION

Our mission is to protect the safety and integrity of greyhound and horse racing in the great State of Texas.



CHALLENGES

TEXAS RACING COMMISSION

★ Public Trust

★ Fiscal Structure

★ Federal Law (HISA)



EXCELLENCE STARTS HERE



OPPORTUNITIES

TEXAS RACING COMMISSION

★ Partnerships

★ Industry Growth

★ Modernization

- ✓ Statute
- ✓ Rules of Racing
- ✓ Infrastructure

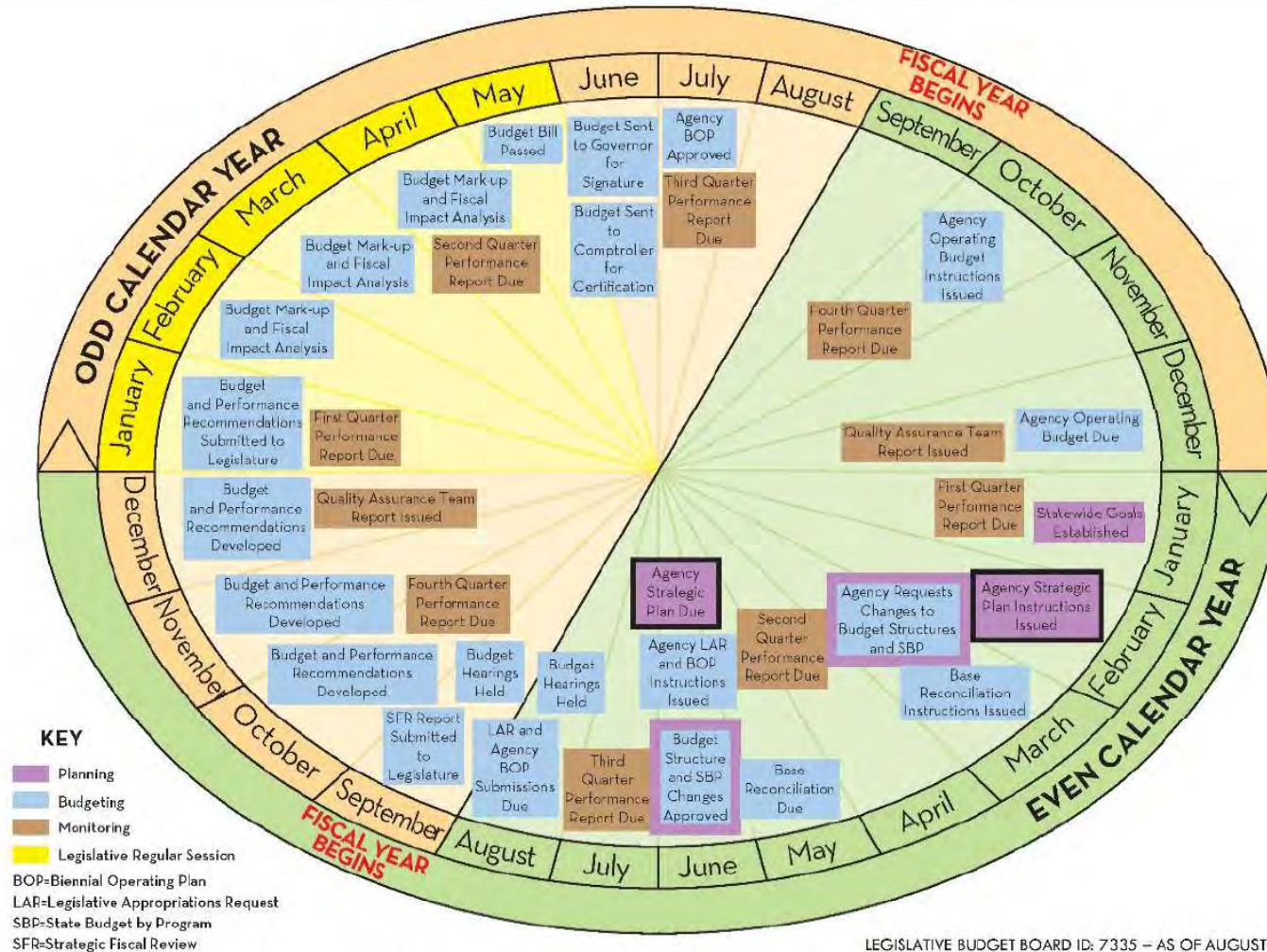


EXCELLENCE STARTS HERE



LEGISLATIVE TIMELINE

TEXAS RACING COMMISSION



LEGISLATIVE BUDGET BOARD ID: 7335 – AS OF AUGUST 2021



TXRC STRATEGIC PLAN TIMELINE

TEXAS RACING COMMISSION





CURRENT FUNDING STRATEGY

TEXAS RACING COMMISSION

NUMBER	STRATEGY TITLE	APPROPRIATION	FUND
A.1.1	LICENSE/REGULATE RACETRACKS	\$370,563.00	0597
A.2.1	TEXAS BRED INCENTIVE (HORSE)	\$3,130,000.00	1327
A.2.1	TEXAS BRED INCENTIVE (GREYHOUND)		
A.3.1	SUPERVISE/CONDUCT LIVE RACES	\$436,021.00	0597
A.3.2	MONITOR LICENSE ACTIVITIES	\$317,637.00	0597
A.4.1	INSPECT & PROVIDE EMERGENCY CARE	\$339,577.00	0597
A.4.2	ADMINISTER DRUG TESTS	\$197,327.00	0597
B.1.1	OCCUPATIONAL LICENSING	\$342,871.00	0597
B.1.2	TEXAS ON-LINE	\$13,323.00	0597
C.1.1	MONITOR WAGERING & AUDIT	\$280,866.00	0597
D.1.1	CENTRAL ADMINISTRATION	\$870,243.00	0597
D.1.2	INFORMATION RESOURCES	\$546,821.00	0597
	TOTAL (INCLUDES RELOCATION & NOT TEXAS-BRED \$)	\$3,715,249.00	



FUNDING & LEGISLATIVE DISCUSSION POINTS

TEXAS RACING COMMISSION

- TEXAS-BRED INCENTIVE (REMOVE FROM APPROPRIATIONS)
- HORSE INDUSTRY ESCROW ACCOUNT (DESCRIBE AS TRUST FUND & SEPARATE FROM GENERAL REVENUE DISCUSSION)
- GENERAL REVENUE METHODS OF FINANCE
- EMPLOYEE RETIREMENT SYSTEM COST



FUNDING STRUCTURE

TEXAS RACING COMMISSION

GENERAL REVENUE METHODS OF FINANCE

- LICENSE FEE RESTRUCTURE (STABLE)
 - BUSINESS LICENSE (RACETRACK, OWNER/TRAINER)
 - OCCUPATIONAL LICENSE (JOCKEY, VETERINARIAN)
 - SUPPORT LICENSE (GROOM, BLACKSMITH)
 - VEHICLE REGISTRATION (ALL)

- SIMULCAST TAX (UNSTABLE)
 - EQUINE DRUG RESEARCH COUNCIL (REINSTATE)
 - ORIENT FUNDS ON SAFETY PROGRAMS
 - FUNDS DRUG TESTING



CURRENT PERFORMANCE MEASURES

TEXAS RACING COMMISSION

SEE HANDOUT



SWOT VIEW: PERFORMANCE MEASURES

TEXAS RACING COMMISSION

- ✓ **MEASURE AGENCY PERFORMANCE, NOT CUSTOMER PERFORMANCE**
- ✓ **REMOVE COMMUNICATION BARRIERS (PARTNERSHIPS & TECHNOLOGY)**
- ✓ **EDUCATE TEXANS ON AGENCY MISSION & RETURN ON INVESTMENT**
- ✓ **EMPLOY FISCAL STEWARDSHIP PRACTICES**



PROPOSED STRATEGIC FRAMEWORK

TEXAS RACING COMMISSION

ENABLE

- STRENGTHEN THE TEXAS RACING ACT TO PREVENT FEDERAL INTERVENTION
- ENABLE RACING INDUSTRY GROWTH: BUSINESS/OCCUPATIONAL LICENSES
- ALIGN AGENCY PROGRAMS WITH TEXAS STATUTES

PROTECT

- DETER, INVESTIGATE AND ADJUDICATE VIOLATIONS (TRA)
- WAGERING INTEGRITY AND SECURITY
- EQUINE/LICENSEE HEALTH & SAFETY

COMMUNICATE

- MODERNIZE TECHNOLOGY (LICENSING/BUSINESS PROCESSES)
- ENHANCE CYBERSECURITY PRACTICES
- ADDRESS ACCESSIBILITY AND LANGUAGE BARRIERS

PARTNER

- INCREASE PUBLIC ENGAGEMENTS
- PROVIDE CUSTOMERS COMMUNICATION OPTIONS
- ENGAGE IN EDUCATION & RESEARCH INITIATIVES

EXCELLENCE STARTS HERE



QUESTIONS/GUIDANCE

TEXAS RACING COMMISSION



EXCELLENCE STARTS HERE

DRAFT

**TEXAS RACING COMMISSION GOALS, STRATEGY CROSS-WALK FOR FY2023-FY2027 STRATEGIC PLAN
AS OF APRIL 7, 2022**

GOAL A: ENABLE

CURRENT GOAL/STRATEGY	PROPOSED GOALS/STRATEGY
A. GOAL: ENFORCE RACING REGULATION	RENAME: A. GOAL: ENABLE RACING INDUSTRY GROWTH THROUGH BUSINESS & OCCUPATIONAL LICENSING PROGRAMS
A.1.1. STRATEGY: LICENSE/REGULATE RACETRACKS	RENAME: A.1.1. STRATEGY: MODERNIZE AND ALIGN LICENSING SERVICES WITH TEXAS GOVERNMENT CODE
A.2.1. STRATEGY: TEXAS BRED INCENTIVE PROGRAM	RENUMBER AS: E. GOALS: ADMINISTER TEXAS BRED INCENTIVE FUND
A.3.1 STRATEGY: SUPERVISE & CONDUCT LIVE RACES	RENAME: A.1.2. STRATEGY: PROVIDE PROFESSIONAL RACING OPERATIONS OVERSIGHT
A.3.2. STRATEGY: MONITOR LICENSEE ACTIVITIES	DELETE
A.4.1. STRATEGY: INSPECT & PROVIDE EMERGENCY CARE	DELETE
A.4.2. STRATEGY: ADMINISTER DRUG TESTS	DELETE

GOAL B: PROTECT

CURRENT GOAL/STRATEGY	PROPOSED GOAL/STRATEGY
B. GOAL: REGULATE PARTICIPATION	RENAME: B. GOAL: PROTECT TEXAS RACING PARTICIPANTS (EQUINE, CANINE, HUMAN)
B.1.1. STRATEGY: OCCUPATIONAL LICENSING PROGRAM	RENAME: B.1.1. STRATEGY: DETER, INVESTIGATE AND ADJUDICATE VIOLATIONS OF THE TEXAS RACING ACT
	ADD: B.1.2. STRATEGY: INCREASE THE INTEGRITY AND SECURITY OF PARI-MUTUEL WAGERING TO PROTECT THE CITIZENS OF TEXAS

DRAFT

**TEXAS RACING COMMISSION GOALS, STRATEGY CROSS-WALK FOR FY2023-FY2027 STRATEGIC PLAN
AS OF APRIL 7, 2022**

GOAL C: COMMUNICATE & PARTNER

CURRENT GOAL/STRATEGY	PROPOSED GOAL/STRATEGY
C. GOAL: REGULATE PARI-MUTUEL WAGERING	RENAME: C. GOAL: MODERNIZE AGENCY COMMUNICATIONS AND BUSINESS OPERATIONS
C.1.1 STRATEGY: MONITOR WAGERING AND COMPLIANCE	RENAME: C.1.1. STRATEGY: TEXAS.GOV
	ADD: C.1.2. STRATEGY: DEPARTMENT OF INFORMATION RESOURCES, SHARED TECHNOLOGY SERVICES
	ADD: C.1.3. STRATEGY: TEXAS FACILITIES COMMISSION
	ADD: C.1.2. STRATEGY: DEPARTMENT OF PUBLIC SAFETY (FINGERPRINTS, BACKGROUND CHECKS, CRIMINAL VIOLATIONS)

D. GOAL: INDIRECT ADMINISTRATION

CURRENT GOAL/STRATEGY	PROPOSED GOAL/STRATEGY
D. GOAL: INDIRECT ADMINISTRATION	NO CHANGE
D.1.1. STRATEGY: CENTRAL ADMIN & OTHER SUPPORT SVCS	NO CHANGE
D.1.2. STRATEGY: INFORMATION RESOURCES	RENAME: D.1.2. STRATEGY: INFORMATION TECHNOLOGY & CYBERSECURITY

GOAL E. TEXAS BRED INCENTIVE PROGRAM

CURRENT GOAL/STRATEGY	PROPOSED GOAL/STRATEGY
	ADD: E. GOAL: ADMINISTER TEXAS BRED INCENTIVE FUND
	ADD: E.1.1. STRATEGY: PROVIDE OVERSIGHT FOR TRUST FUND DISTRIBUTION.
	ADD: E.1.2. STRATEGY: EQUINE DRUG RESEARCH COUNCIL



TEXAS RACING COMMISSION

BUDGET UPDATE BRIEF

APRIL 13, 2022



REVENUE ACCOUNT OVERVIEW

TEXAS RACING COMMISSION

Agency Methods of Finance

- Fund 597
 - Cash Balance Carry Forward
 - Annual Racetrack License Fees (Active/Inactive)
 - Simulcast Tax
 - Supplemental Fees
 - Occupational License Fees and Fines
 - Other Revenue (Reimbursements)

- Fund 1327
 - Breakage
 - Texas-Bred



REVENUE TO DATE

TEXAS RACING COMMISSION

By Method of Finance

➤ Fund 597	
▪ Cash Balance Carry Forward	\$ 750,000.00
▪ Annual License Fees (Active & Inactive)	\$ 665,004.00
▪ Simulcast Tax	\$ 1,047,996.40
▪ Supplemental Fees	\$ 102,383.00
▪ Occupational License Fees and Fines	\$ 325,742.25
▪ <u>Other Revenue (Reimbursements)</u>	<u>\$ 8,245.28</u>
	TOTAL FUND 597
	\$ 2,899,370.93
➤ Fund 1327	
▪ Breakage/Texas-Bred	\$ 1,102,713.62



REVENUE PROJECTED FY22

TEXAS RACING COMMISSION

By Method of Finance

➤ Fund 597	
▪ Cash Balance Carry Forward	\$ 750,000.00
▪ Annual License Fees (Active & Inactive)	\$ 1,330,008.00
▪ Simulcast Tax	\$ 2,426,591.00
▪ Supplemental Fees	\$ 102,383.00
▪ Occupational License Fees and Fines	\$ 713,697.00
▪ <u>Other Revenue (Reimbursements)</u>	<u>\$ 18,380.00</u>
TOTAL FUND 597	\$ 5,341,059.00
➤ Fund 1327	
▪ Breakage/Texas-Bred	\$ 3,130,000.00



FY22 TRUST FUND SNAPSHOT (HIEA)

TEXAS RACING COMMISSION

Revenue Sources

- Agriculture Tax - \$25 million each Fiscal Year
- Cross-Species Escrow from Greyhound Tracks – approx. \$150,000 each Fiscal Year

Allocation Formula

- 70% Purses
- 30% Breed Registries

Distributions – FY 2022 (through March 24)

- Purses \$8,812,301.87
- Breed Registries \$4,025,052.95



QUESTIONS

TEXAS RACING COMMISSION



EXCELLENCE STARTS HERE



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

April 6, 2022

The Honorable Judd Stone, II
Solicitor General, Office of the Attorney General
Austin, TX 78711-2548

Re: Request for Representation: NHBPA v. Black

Dear Mr. Stone:

I am writing on behalf of the Chair of the Texas Racing Commission to invite you to attend the Commission meeting on Wednesday, April 13, 2022 at 10:30 a.m. at the John Reagan Building, 1400 Congress Avenue, Room 120, Austin, Texas 78701. The Texas Racing Commission is scheduled to vote on whether to cooperate with the federal government on the implementation of the Horseracing Integrity and Safety Act (HISA).

As you know, the Attorney General's office represents the Texas Racing Commission and the State of Texas in the case of the National Horseman's Benevolent and Protective Association v. Black, Case No. 5:21-CV-071-H, filed in Lubbock, Texas. Assistant Attorney General, Taylor Gifford, in your General Litigation Division, is our trial counsel in this matter. Although the court granted our intervention in the case, the Plaintiff's motion for summary judgment was denied. The Plaintiffs, including the State of Texas, hoped that the Court would issue a nationwide injunction based on facial challenges on the constitutionality of the Horseracing Integrity and Safety Act, which will go into effect on July 1, 2022. Independent of the decision on the anti-commandeering claim, the Texas Racing Commission requests your representation in pursuing an appeal of the Motion for Summary judgment in partnership with our fellow plaintiffs.

We have an immediate need to have your office contact our agency, as well as the other parties in this matter to determine whether the State of Texas will continue to pursue the anti-commandeering claim filed as a part of our motion to intervene. The Plaintiff's joint response on the claim is due to the court by April 18, 2022. HISA sent the Commission a demand for payment on April 1, 2022, to fund the implementation of the federal law. We view this demand for payment as an invalid attempt to preempt state law, specifically our authority to regulate pari-mutuel horseracing in the State of Texas.¹ The operative effect of HISA is that it impairs the ability of the Texas Racing Commission to oversee covered horseraces. At the same time, HISA has no authority to regulate pari-mutuel wagering, which creates imminent harm for the citizens of Texas by effectively ending pari-mutuel wagering in this state.²

Thank you in advance for your support for the business and individual licensees who participate in the sport of horseracing in the great State of Texas.

Amy F. Cook

Amy F. Cook
Executive Director

cc: The Honorable Judge Robert C. Pate, Chair, Texas Racing Commission
Commissioner Connie McNabb, DVM, Vice Chair, Texas Racing Commission
The Honorable Ken Paxton, Attorney General of Texas

¹ See Section 2023.001, Texas Racing Act and Section 321.3, Texas Rules of Racing

² See the Texas Racing Act, Tex. Occ. Code, Sec. 2023.002. Regulation and Supervision of Wagering at Race Meetings, which provides that the Commission "shall regulate and supervise each race meeting in this state that involves wagering on the result of horse racing or greyhound racing."²



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

April 14, 2022

Horseracing Integrity and Safety Authority
ATTN: Lisa Lazarus
401 West Main Street, Suite 222
Lexington, KY 40507

*Via Certified Mail Return Receipt Requested
and via email feedback@hisaus.org and
john@rrrfirm.com*

Re: 15 U.S.C. 3052(f)(2) – State Fee Election

Dear Ms. Lazarus:

On Friday, April 1, 2022, our agency received a demand payment in the amount of \$371,377.00 with monthly payments expected to begin no later than July 1, 2020, the date Horseracing Integrity and Safety Act (HISA) of 2020 goes into effect. The Act creates a private, self-funded Authority, as well as mandates a notification to the Authority no later than May 2, 2022, as to whether the Texas Racing Commission will collect fees from licensees of the commission and remit them to the Authority.

The Texas Racing Act contains no statutory provision enabling the Texas Racing Commission to become an agent of the federal government to collect and remit fees to create uniform nationwide standards for horses only in "covered horse races." Since we do not have the statutory authority to collect fees on your behalf, our election not to collect fees as set out in 15 USC 3052(f)(2)(D) will limit the Texas Racing Commission's *ability to impose or collect fees* from "any person" relating to anti-doping and medication control or racetrack safety matters for covered horseraces.¹

We view your demand for payment as invalid attempt to preempt state law, specifically our authority to regulate pari-mutuel horseracing in the State of Texas.² The effect of the law is that it effectively ends pari-mutuel wagering and creates imminent economic harm for the citizens of Texas. Instead of treating state regulatory agencies like bill collectors for the Authority, the FTC should partner with states and their congressional delegations then return to Congress with the goal of replacing the Authority a federal cooperative agreement program.³

As the government agency charged with the protection of the horses, licensed participants and the public that engage in and attend the sport in Texas, we agree that increased uniformity of safety standards among the states is an appropriate direction for the future of the sport. However, the Texas Racing Act passed by our state legislature is the only authority our agency is obligated to follow to license participants and regulate horseracing in the State of Texas.⁴ Our agency, therefore elects not to remit fees under 15 USC 3502, to the Authority.

Sincerely,

Amy F. Cook
Executive Director
Enclosure (Copy of HISA bill of costs)

cc: Texas Racing Commission Commissioners

¹ See 15 U.S.C. § 3051(4), (5) and (6).

² See Section 2023.001, Texas Racing Act and Section 321.3, Texas Rules of Racing

³ <https://www.regulations.gov/comment/FTC-2022-0014-0006>

⁴ See the Texas Racing Act, codified in Subtitle A-1, Title 13, Occupations Code

Horseracing Integrity & Safety Authority, Inc.
2022 Budget

	Total	General Operations	Technology	Racetrack Safety	ADMC
Revenue					
Fees	60,000	60,000			
Total Revenue	60,000	60,000	0	0	0
Expenses					
Compensation Expense	2,052,313	2,052,313			
General & Administrative Expenses	1,039,003	707,003	32,000	300,000	
Legal	1,087,290	887,290		200,000	
Technology Expenses	2,998,300		1,818,000		1,180,300
Education & Communication Services	1,013,700			200,000	813,700
Racetrack Safety and Accreditation Services	1,740,203			1,740,203	
ADMC Build Out Expenses	4,466,960				4,466,960
Total Expenses	14,397,769	3,646,606	1,850,000	2,440,203	6,460,960
Total Change in Net Assets	(14,337,769)	(3,586,606)	(1,850,000)	(2,440,203)	(6,460,960)

From: [Amy Cook](#)
To: [Virginia Fields](#)
Subject: Fwd: HISA 2022 Annual Calculation
Date: Friday, April 1, 2022 3:21:51 PM
Attachments: [cover letter.4.1.22.final.ex.pdf](#)
[2022 HISA Allocations.distr.pdf](#)
[Assessment Methodology.Rule 8500 Series.pdf](#)

Amy F. Cook
Executive Director

"Excellence Starts Here"

Texas Racing Commission
8505 Cross Park Drive, Suite 110
Austin, TX 78754

Email: Amy.Cook@txrc.texas.gov
Customer Service: [512-833-6699](tel:512-833-6699)
Direct Line: [512-490-4010](tel:512-490-4010)
Cell: [512-840-8134](tel:512-840-8134)
Webpage: www.txrc.texas.gov

From: John Roach <john@rrrfirm.com>
Sent: Friday, April 1, 2022 3:01:07 PM
To: John Roach <john@rrrfirm.com>
Cc: lisa.lazarus@hisaus.org <lisa.lazarus@hisaus.org>
Subject: HISA 2022 Annual Calculation

You don't often get email from john@rrrfirm.com. [Learn why this is important](#)

Dear Racing Commission Executive Directors:

Good afternoon. Please see the attached letter from HISA's CEO Lisa Lazarus.

Sincerely,

John Roach

John C. Roach
Attorney at Law
Ransdell Roach & Royse, PLLC
176 Pasadena Drive, Building One

Lexington, Kentucky 40503

Direct: (859) 554-3672

Main Phone: (859) 276-6262

General Fax: (859) 276-4500

E-Mail: john@rrrfirm.com

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Horseracing Integrity and Safety Authority
401 W Main Street Suite 222
Lexington, Kentucky 40507

April 1, 2022

Dear Racing Commission Executive Directors:

Pursuant to the Horseracing Integrity and Safety Act of 2020 (the “Act”), and given the Federal Trade Commission’s (“FTC”) approval today of the proposed Methodology for Determining Assessment Rule (the “Methodology Rule”), attached is the annual calculation of each state’s proportionate share of the amounts required under the Act (15 U.S.C. §3052(f)). The calculation is based on the 2022 budget of the Horseracing Integrity and Safety Authority in the amount of \$14,331,949.00 and the Methodology Rule (Rule 8500 Series) (attached). As noted in the Methodology Rule, the Authority is relying upon 2021 racing data for determining the assessments for 2022. The Authority is considering an amendment to the Methodology Rule that will calculate a true-up of the assessments for next year’s calculation based on the actual starts and purses paid in the previous year. If approved by the Board and the FTC, this amendment will go into effect before the next assessment. This will mean that if a state’s assessment amount is different when the actual 2021 numbers are utilized, a credit or debit will be made to the 2023 assessment in order to align with the final numbers.

Please note that if a State Racing Commission does not elect to remit the annual calculation, the covered racetracks are required to collect the fee assessment in accordance with the procedures set forth in the Methodology Rule. A spreadsheet that sets forth each covered racetrack’s amount to be collected under that scenario is also attached.

In accordance with the Act, any State racing commission that elects to remit the assessment to the Authority is required to notify the Authority on or before May 2, 2022. Feel free to contact John Roach at 859-554-3672 if you have any questions about the calculations or the Methodology Rule. And finally, please note that the Methodology Rule requires all notices to the Authority to be in writing and mailed to 401 West Main Street, Suite 222, Lexington, Kentucky 40507, and emailed to feedback@hisaus.org. Please copy John at john@rrrfirm.com on these notices as well.

Sincerely,



Lisa Lazarus
CEO
lisa.lazarus@hisaus.org

2021 Official Thoroughbred Race Details by State in the U.S.A. (Steeplechase Excluded)

State	Purses (Paid)	Starts	Purses/Start	% of starts	% of purses	%Purses/% Starts	Start Fee for Projected Starts	Start Fee for Projected Purse Starts	Total Start Fee	State Total	10% Cap Adjustment
AR	\$ 40,776,630	5,011	\$8,137	2.1%	3.7%	1.81	\$29.50	\$53.37	\$82.87	\$415,245	\$0.00
AZ	\$ 15,414,209	8,609	\$1,790	3.5%	1.4%	0.40	\$29.50	\$11.74	\$41.24	\$355,053	\$0.00
CA*	\$ 123,130,132	21,822	\$5,642	9.0%	11.3%	1.25	\$29.50	\$37.00	\$66.50	\$1,451,256	\$0.00
CO	\$ 2,074,446	1,070	\$1,939	0.4%	0.2%	0.43	\$29.50	\$12.71	\$42.21	\$45,169	\$0.00
DE	\$ 18,288,243	4,443	\$4,116	1.8%	1.7%	0.92	\$29.50	\$26.99	\$56.49	\$251,005	\$0.00
FL	\$ 95,652,208	23,462	\$4,077	9.7%	8.8%	0.91	\$29.50	\$26.74	\$56.24	\$1,319,430	\$0.00
IA	\$ 15,493,407	3,849	\$4,025	1.6%	1.4%	0.89	\$29.50	\$26.40	\$55.90	\$215,153	\$0.00
ID**											
IL***	\$ 14,859,930	7,066	\$2,103	2.9%	1.4%	0.47	\$29.50	\$13.79	\$43.29	\$305,900	\$0.00
IN	\$ 31,246,055	7,043	\$4,436	2.9%	2.9%	0.99	\$29.50	\$29.10	\$58.60	\$412,685	\$0.00
KY	\$ 129,814,838	14,680	\$8,843	6.0%	11.9%	1.97	\$29.50	\$57.99	\$87.49	\$1,284,408	\$0.00
LA	\$ 74,027,264	22,650	\$3,268	9.3%	6.8%	0.73	\$29.50	\$21.43	\$50.93	\$1,153,656	\$0.00
MD	\$ 57,177,704	10,765	\$5,311	4.4%	5.2%	1.18	\$29.50	\$34.83	\$64.33	\$692,548	\$0.00
MN	\$ 13,455,802	3,926	\$3,427	1.6%	1.2%	0.76	\$29.50	\$22.48	\$51.98	\$204,062	\$0.00
MT****											
ND*****											
NE*****	\$ 2,295,777	2,504	\$917	1.0%	0.2%	0.20	\$29.50	\$6.01	\$35.51	\$88,924	\$0.00
NJ	\$ 26,904,141	4,436	\$6,065	1.8%	2.5%	1.35	\$29.50	\$39.78	\$69.27	\$307,304	\$0.00
NM	\$ 14,196,846	4,430	\$3,205	1.8%	1.3%	0.71	\$29.50	\$21.02	\$50.52	\$223,790	\$0.00
NV*****											
NY	\$ 179,301,233	19,590	\$9,153	8.1%	16.4%	2.03	\$29.50	\$60.03	\$89.52	\$1,753,793	\$0.00
OH	\$ 45,971,838	16,790	\$2,738	6.9%	4.2%	0.61	\$29.50	\$17.96	\$47.46	\$796,794	\$0.00
OK	\$ 23,758,223	7,809	\$3,042	3.2%	2.2%	0.68	\$29.50	\$19.95	\$49.45	\$386,175	\$0.00
OR*****	\$ 1,683,603	1,416	\$1,189	0.6%	0.2%	0.26	\$29.50	\$7.80	\$37.30	\$52,813	\$0.00
PA	\$ 79,624,867	22,190	\$3,588	9.1%	7.3%	0.80	\$29.50	\$23.53	\$53.03	\$1,176,796	\$0.00
TX	\$ 26,463,297	6,706	\$3,946	2.8%	2.4%	0.88	\$29.50	\$25.88	\$55.38	\$371,377	\$0.00
VA	\$ 9,927,650	1,618	\$6,136	0.7%	0.9%	1.36	\$29.50	\$40.24	\$69.74	\$112,838	\$0.00
WA	\$ 5,609,225	2,672	\$2,099	1.1%	0.5%	0.47	\$29.50	\$13.77	\$43.27	\$115,610	\$0.00
WV	\$ 44,558,251	17,480	\$2,549	7.2%	4.1%	0.57	\$29.50	\$16.72	\$46.22	\$807,878	\$0.00
WY	\$ 969,410	879	\$1,103	0.4%	0.1%	0.25	\$29.50	\$7.23	\$36.73	\$32,288	\$0.00
TOTAL	\$1,092,675,229.00	242,916		100.0%	100.0%					\$14,331,949	

*Excludes Purses for Breeders' Cup days on 11/5/2021 and 11/6/2021.

**Idaho is not planning to conduct covered horseraces in 2022.

*** The data for Illinois has been revised based on the 2022 racing calendar. The calculation takes the 2021 average daily purses and starts for Hawthorne and Fanuel Sportsbook And Horse Racing and multiplies those averages by the 2022 planned race days for those tracks.

****Montana did not conduct covered horseraces in 2021.

*****North Dakota did not conduct covered horseraces in 2021.

*****Nebraska numbers have been adjusted to include only covered horseraces.

*****Nevada did not conduct covered horseraces in 2021.

*****Oregon numbers have been adjusted to include only covered horseraces.

State	Track Name	Purses (Paid)	Starts	% of starts	% of purses	Purses per start	% of purses in state	HISA fee per start	HISA annual cost
AR	OAKLAWN PARK	\$ 40,776,630	5,011	2.1%	3.7%	\$8,137	100.0%	82.87	\$ 415,245
AZ	ARIZONA DOWNS	\$ 1,989,700	1,455	0.6%	0.2%	\$1,367	12.9%	31.50	\$ 45,831
AZ	TURF PARADISE	\$ 13,424,509	7,154	2.9%	1.2%	\$1,877	87.1%	43.22	\$ 309,222
CA	DEL MAR*	\$ 29,540,730	3,564	1.5%	2.7%	\$8,289	24.0%	97.69	\$ 348,178
CA	FERNDALE	\$ 323,206	211	0.1%	0.0%	\$1,532	0.3%	18.05	\$ 3,809
CA	FRESNO	\$ 925,909	267	0.1%	0.1%	\$3,468	0.8%	40.87	\$ 10,913
CA	GOLDEN GATE FIELDS	\$ 26,336,596	8,284	3.4%	2.4%	\$3,179	21.4%	37.47	\$ 310,413
CA	LOS ALAMITOS	\$ 1,881,120	1,292	0.5%	0.2%	\$1,456	1.5%	17.16	\$ 22,172
CA	LOS ALAMITOS RACE COURSE	\$ 7,864,334	1,340	0.6%	0.7%	\$5,869	6.4%	69.17	\$ 92,692
CA	PLEASANTON	\$ 2,235,422	676	0.3%	0.2%	\$3,307	1.8%	38.98	\$ 26,347
CA	SANTA ANITA PARK	\$ 54,022,815	6,188	2.5%	4.9%	\$8,730	43.9%	102.90	\$ 636,732
CO	ARAPAHOE PARK	\$ 2,074,446	1,070	0.4%	0.2%	\$1,939	100.0%	42.21	\$ 45,169
DE	DELAWARE PARK	\$ 18,288,243	4,443	1.8%	1.7%	\$4,116	100.0%	56.49	\$ 251,005
FL	GULFSTREAM PARK	\$ 78,676,410	16,657	6.9%	7.2%	\$4,723	82.3%	65.15	\$ 1,085,265
FL	TAMPA BAY DOWNS	\$ 16,975,798	6,805	2.8%	1.6%	\$2,495	17.7%	34.41	\$ 234,165
IA	PRAIRIE MEADOWS	\$ 15,493,407	3,849	1.6%	1.4%	\$4,025	100.0%	55.90	\$ 215,153
IL***	FANDUEL SPORTSBOOK AND HORSE RACING	\$ 4,900,130	2,397	1.0%	0.4%	\$2,044	33.0%	42.08	\$ 100,872
IL***	HAWTHORNE	\$ 9,959,800	4,669	1.9%	0.9%	\$2,133	67.0%	43.91	\$ 205,028
IN	INDIANA GRAND RACE COURSE	\$ 31,246,055	7,043	2.9%	2.9%	\$4,436	100.0%	58.60	\$ 412,685
KY	CHURCHILL DOWNS	\$ 67,690,823	5,546	2.3%	6.2%	\$12,205	52.1%	120.76	\$ 669,743
KY	ELLIS PARK	\$ 10,125,838	1,710	0.7%	0.9%	\$5,922	7.8%	58.59	\$ 100,187
KY	KENTUCKY DOWNS	\$ 15,043,863	654	0.3%	1.4%	\$23,003	11.6%	227.59	\$ 148,846
KY	KEENELAND	\$ 26,045,824	2,488	1.0%	2.4%	\$10,469	20.1%	103.58	\$ 257,701
KY	TURFWAY PARK	\$ 10,908,490	4,282	1.8%	1.0%	\$2,548	8.4%	25.21	\$ 107,930
LA	DELTA DOWNS	\$ 23,481,180	7,938	3.3%	2.1%	\$2,958	31.7%	46.10	\$ 365,935
LA	EVANGELINE DOWNS	\$ 12,589,265	5,052	2.1%	1.2%	\$2,492	17.0%	38.83	\$ 196,194
LA	FAIR GROUNDS	\$ 29,591,929	5,751	2.4%	2.7%	\$5,146	40.0%	80.19	\$ 461,167
LA	LOUISIANA DOWNS	\$ 8,364,890	3,909	1.6%	0.8%	\$2,140	11.3%	33.35	\$ 130,360
MD	LAUREL PARK	\$ 34,257,495	6,806	2.8%	3.1%	\$5,033	59.9%	60.97	\$ 414,934
MD	PIMLICO	\$ 20,938,314	3,582	1.5%	1.9%	\$5,845	36.6%	70.80	\$ 253,609

State	Track Name	Purses (Paid)	Starts	% of starts	% of purses	Purses per start	% of purses in state	HISA fee per start	HISA annual cost
MD	TIMONIUM	\$ 1,981,895	377	0.2%	0.2%	\$5,257	3.5%	63.67	\$ 24,005
MN	CANTERBURY PARK	\$ 13,455,802	3,926	1.6%	1.2%	\$3,427	100.0%	51.98	\$ 204,062
NE	COLUMBUS	\$ 417,401	388	0.2%	0.0%	\$1,076	18.2%	41.67	\$ 16,167
NE	FONNER PARK	\$ 1,878,376	2,116	0.9%	0.2%	\$888	81.8%	34.38	\$ 72,756
NJ	MEADOWLANDS	\$ 1,040,666	323	0.1%	0.1%	\$3,222	3.9%	36.80	\$ 11,887
NJ	MONMOUTH PARK	\$ 25,863,475	4,113	1.7%	2.4%	\$6,288	96.1%	71.83	\$ 295,417
NM	ALBUQUERQUE	\$ 3,790,351	973	0.4%	0.3%	\$3,896	26.7%	61.41	\$ 59,749
NM	RUIDOSO DOWNS	\$ 2,322,195	1,071	0.4%	0.2%	\$2,168	16.4%	34.18	\$ 36,606
NM	SUNRAY PARK	\$ 2,234,163	690	0.3%	0.2%	\$3,238	15.7%	51.04	\$ 35,218
NM	SUNLAND PARK	\$ 92,692	32	0.0%	0.0%	\$2,897	0.7%	45.66	\$ 1,461
NM	ZIA PARK	\$ 5,757,445	1,664	0.7%	0.5%	\$3,460	40.6%	54.54	\$ 90,757
NY	AQUEDUCT	\$ 46,968,360	5,505	2.3%	4.3%	\$8,532	26.2%	83.45	\$ 459,410
NY	BELMONT PARK	\$ 70,275,740	5,906	2.4%	6.4%	\$11,899	39.2%	116.39	\$ 687,386
NY	FINGER LAKES	\$ 15,259,823	4,962	2.0%	1.4%	\$3,075	8.5%	30.08	\$ 149,260
NY	SARATOGA	\$ 46,797,310	3,217	1.3%	4.3%	\$14,547	26.1%	142.29	\$ 457,737
OH	BELTERRA PARK	\$ 11,171,698	4,857	2.0%	1.0%	\$2,300	24.3%	39.87	\$ 193,630
OH	MAHONING VALLEY RACE COURSE	\$ 16,487,020	6,495	2.7%	1.5%	\$2,538	35.9%	44.00	\$ 285,757
OH	THISTLEDOWN	\$ 18,313,120	5,438	2.2%	1.7%	\$3,368	39.8%	58.37	\$ 317,407
OK	FAIR MEADOWS	\$ 1,841,844	1,010	0.4%	0.2%	\$1,824	7.8%	29.64	\$ 29,938
OK	REMINGTON PARK	\$ 17,836,365	4,992	2.1%	1.6%	\$3,573	75.1%	58.08	\$ 289,919
OK	WILL ROGERS DOWNS	\$ 4,080,014	1,807	0.7%	0.4%	\$2,258	17.2%	36.70	\$ 66,318
OR	GRANTS PASS	\$ 1,683,603	1,416	0.6%	0.2%	\$1,189	100.0%	37.30	\$ 52,813
PA	PENN NATIONAL	\$ 21,305,152	7,371	3.0%	1.9%	\$2,890	26.8%	42.72	\$ 314,874
PA	PRESQUE ISLE DOWNS	\$ 10,469,625	3,458	1.4%	1.0%	\$3,028	13.1%	44.75	\$ 154,733
PA	PARX RACING	\$ 47,850,090	11,361	4.7%	4.4%	\$4,212	60.1%	62.25	\$ 707,188
TX	GILLESPIE COUNTY FAIRGROUND	\$ 146,900	95	0.0%	0.0%	\$1,546	0.6%	21.70	\$ 2,062
TX	SAM HOUSTON RACE PARK	\$ 12,647,840	3,257	1.3%	1.2%	\$3,883	47.8%	54.50	\$ 177,496
TX	LONE STAR PARK	\$ 13,668,557	3,354	1.4%	1.3%	\$4,075	51.7%	57.19	\$ 191,820
VA	COLONIAL DOWNS	\$ 9,927,650	1,618	0.7%	0.9%	\$6,136	100.0%	69.74	\$ 112,838
WA	EMERALD DOWNS	\$ 5,609,225	2,672	1.1%	0.5%	\$2,099	100.0%	43.27	\$ 115,610

State	Track Name	Purses (Paid)	Starts	% of starts	% of purses	Purses per start	% of purses in state	HISA fee per start	HISA annual cost
WV	HOLLYWOOD CASINO AT CHARLES TOWN RACES	\$ 31,252,350	10,142	4.2%	2.9%	\$3,081	70.1%	55.87	\$ 566,631
WV	MOUNTAINEER CASINO RACETRACK & RESORT	\$ 13,305,901	7,338	3.0%	1.2%	\$1,813	29.9%	32.88	\$ 241,247
WY	ENERGY DOWNS	\$ 302,550	265	0.1%	0.0%	\$1,142	31.2%	38.03	\$ 10,077
WY	SWEETWATER DOWNS	\$ 218,400	158	0.1%	0.0%	\$1,382	22.5%	46.04	\$ 7,274
WY	WYOMING DOWNS	\$ 448,460	456	0.2%	0.0%	\$983	46.3%	32.76	\$ 14,937
		1,092,675,229	242,916	100.0%	100.0%				
									\$ 14,331,949

The information set forth in the columns that are shaded has been supplied by Equibase.

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written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at <https://www.regulations.gov>—as legally required by FTC Rule § 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before March 4, 2022. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/siteinformation/privacypolicy>.

IX. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. See 16 CFR 1.26(b)(5).

X. Self-Regulatory Organization's Proposed Rule Language

Rule 8500 Series—Methodology for Determining Assessments

8510	Definitions
8520	Annual Calculation of Amounts Required
8300	Disciplinary Hearings and Accreditation Procedures
8310	Application
8320	Adjudication of Violations of Established in the Rule 2200 Series
8330	Adjudication of Rule 8100 Violations
8340	Initial Hearings Conducted Before the Racetrack Safety Committee or the Board of the Authority
8350	Appeal to the Board
8360	Accreditation Procedures
8370	Final Civil Sanction
8400	Investigatory Powers

8500. Methodology for Determining Assessments

8510. Definitions

For purposes of this Rule 8500 Series:

(a) *Annual Covered Racing Starts* means, for the following calendar year, the sum of: (i) 50 percent of the number of Projected Starts; plus (ii) 50 percent of the number of Projected Purse Starts.

(b) *Covered Horserace* has the meaning set forth in 15 U.S.C. 3051(5).

(c) *Projected Starts* means the number of starts in Covered Horseraces in the previous 12 months as reported by Equibase, after taking into consideration alterations in the racing calendar of the relevant State(s) for the following calendar year.

(d) *Projected Purse Starts* means: (i) The total amount of purses for Covered Horseraces as reported by Equibase (not including the Breeders' Cup World Championships Races), after taking into consideration alterations in purses for the relevant State(s) for the following calendar year, divided by (ii) the Projected Starts for the following calendar year.

(e) *Racetrack* has the meaning set forth in 15 U.S.C. 3051(15).

8520. Annual Calculation of Amounts Required

(a) If a State racing commission elects to remit fees pursuant to 15 U.S.C. 3052(f)(2), the State racing commission shall notify the Authority in writing on or before May 2, 2022 of its decision to elect to remit fees.

(b) Not later than April 1, 2022, and not later than November 1 of each year thereafter, the Authority shall determine and provide to each State Racing Commission the estimated amount required from each State pursuant to the calculation set forth in Rule 8520(c) below.

(c) Upon the approval of the budget for the following calendar year by the Board of the Authority, and after taking into account other sources of Authority revenue, the Authority shall allocate the calculation due from each State pursuant to 15 U.S.C. 3052(f)(1)(C)(i) proportionally by each State's respective percentage of the Annual Covered Racing Starts. The proportional calculation for each State's respective percentage of the Annual Covered Racing Starts shall be calculated as follows:

(1) The total amount due from all States pursuant to 15 U.S.C. 3052(f)(1)(C)(i) shall be divided by the Projected Starts of all Covered Horseraces; then

(2) 50 percent of the quotient calculated in (c)(1) is multiplied by the quotient of (i) the relevant State's percentage of the total amount of purses for all Covered Horseraces as reported by Equibase (not including the Breeders' Cup World Championships Races), after

taking into consideration alterations in purses for the relevant State for the following calendar year; divided by (ii) the relevant State's percentage of the Projected Starts of all Covered Horseraces starts; then

(3) the sum of the product of the calculation in (c)(2) and 50 percent of the quotient calculated in (c)(1) is multiplied by the Projected Starts in the applicable State.

Provided however, that no State's allocation shall exceed 10 percent of the total amount of purses for Covered Horseraces as reported by Equibase in the State (not including the Breeders' Cup World Championships Races). All amounts in excess of the 10 percent maximum shall be allocated proportionally to all States that do not exceed the maximum, based on each State's respective percentage of the Annual Covered Racing Starts.

(d) Pursuant to 15 U.S.C. 3052(f)(2)(B), a State racing commission that elects to remit fees shall remit fees on a monthly basis and each payment shall equal one-twelfth of the estimated annual amount required from the State for the following year.

(e) If a State racing commission does not elect to remit fees pursuant to 15 U.S.C. 3052(f)(2):

(1) The Authority shall on a monthly basis calculate and notify each Racetrack in the State of the applicable fee per racing start for the next month based upon the following calculations:

(i) Calculate the amount due from the State as if the State had elected to remit fees pursuant to 15 U.S.C. 3052(f)(2) (the "Annual Calculation").

(ii) Calculate the number of starts in Covered Horseraces in the previous twelve months as reported by Equibase (the "Total Starts").

(iii) Calculate the number of starts in Covered Horseraces in the previous month as reported by Equibase (the "Monthly Starts").

(iv) The applicable fee per racing start shall equal the quotient of Monthly Starts, divided by Total Starts, multiplied by the Annual Calculation.

(2) The Authority shall on a monthly basis calculate and notify each Racetrack in the jurisdiction of the following calculations:

(i) Multiply the number of starts in Covered Horseraces in the previous month by the applicable fee per racing start calculated pursuant to paragraph (e)(1)(iv) above.

(ii) The calculation set forth in 15 U.S.C. 3052(f)(3)(A) shall be equal to the amount calculated pursuant to paragraph (e)(2)(i) (the "Assessment Calculation").

(3) The Authority shall allocate the monthly Assessment Calculation proportionally based on each Racetrack's proportionate share in the total purses in Covered Horseraces in the State over the next month and shall notify each Racetrack in the jurisdiction of the amount required from the Racetrack. Each Racetrack shall pay its share of the Assessment Calculation to the Authority within 30 days of the end of the monthly period.

(4) Not later than May 1, 2022 and not later than November 1 each year thereafter, each Racetrack in the State shall submit to the Authority its proposal for the allocation of the Assessment Calculation among covered persons involved with Covered Horseraces (the "Covered Persons Allocation"). On or before 30 days from the receipt of the Covered Persons Allocation from the Racetrack, the Authority shall determine whether the Covered Persons Allocation has been allocated equitably in accordance with 15 U.S.C. 3052(f)(3)(B), and, if so, the Authority shall notify the Racetrack that the Covered Persons Allocation is approved. If a Racetrack fails to submit its proposed Covered Person Allocation in accordance with the deadlines set forth in this paragraph, or if the Authority has not approved the Covered Persons Allocation in accordance with this paragraph, the Authority shall determine the Covered Persons Allocation for the Racetrack. Upon the approval of or the determination by the Authority of the Covered Persons Allocation, the Racetrack shall collect the Covered Persons Allocation from the covered persons involved with Covered Horseraces.

(f) All notices required to be given to the Authority pursuant to the Act and these rules must be in writing and must be mailed to 401 West Main Street, Suite 222, Lexington, Kentucky 40507, and emailed to feedback@hisaus.org.

By direction of the Commission.

April J. Tabor,
Secretary.

[FR Doc. 2022-03717 Filed 2-17-22; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0075; Docket No. 2022-0053; Sequence No. 7]

Information Collection; Government Property

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning government property. DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through April 30, 2022. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by April 19, 2022.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000-0075, Government Property. Comments received generally will be posted without change to <https://www.regulations.gov>, including any

personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or zenaida.delgado@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and any Associated Form(s)

9000-0075, Government Property, and Standard Forms 1428, and 1429.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

1. FAR clause 52.245-1, Government Property.

a. Paragraph (f)(1)(ii) requires contractors to document the receipt of Government property.

b. Paragraph (f)(1)(ii)(A) requires contractors to submit a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

c. Paragraph (f)(1)(iii) requires contractors to create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property. Property records shall, unless otherwise approved by the Property Administrator, contain the following:

i. The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition), and other data elements as necessary and required in accordance with the terms and conditions of the contract.

ii. Quantity received (or fabricated), issued, and balance-on-hand.

iii. Unit acquisition cost.

iv. Unique-item identifier or equivalent (if available and necessary for individual item tracking).

v. Unit of measure.

vi. Accountable contract number or equivalent code designation.

vii. Location.

viii. Disposition.

ix. Posting reference and date of transaction.

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson

**ORDER APPROVING THE ASSESSMENT METHODOLOGY RULE PROPOSED BY
THE HORSERACING INTEGRITY AND SAFETY AUTHORITY**

April 1, 2022

I. Decision of the Commission: HISA’s Assessment Methodology Rule Is Approved

The Horseracing Integrity and Safety Act of 2020, 15 U.S.C. §§ 3051–3060, recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority (“HISA” or the “Authority”), which is charged with developing proposed rules on a variety of subjects. *See id.* § 3053(a). Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission (“Commission”). *See id.* § 3053(b)(2). The Authority submitted and the Commission published for public comment in the Federal Register¹ the text and explanation of a proposed rule by the Horseracing Integrity and Safety Authority concerning Assessment Methodology (the “Notice”), which is required by the Act. *See id.* § 3052(f). “The Commission shall approve a proposed rule or modification if the Commission finds that the proposed rule or modification is consistent with” the Act and the Commission’s procedural rule. *Id.* § 3053(c)(2).

By this Order, for the reasons that follow, the Commission finds that the Assessment Methodology proposed rule is consistent with the Act and the Commission’s procedural rule and therefore approves the proposed rule.

¹ *See* Fed. Trade Comm’n, *Notice of HISA Assessment Methodology Proposed Rule* (“Notice”), 87 Fed. Reg. 9,349 (Feb. 18, 2022).

II. Discussion of Comments and the Commission’s Findings

Under the Act, the Commission must approve a proposed rule if it finds that the proposed rule is consistent with the Act and the Commission’s procedural rule, 16 C.F.R. §§ 1.140–1.144. As a threshold matter, the Commission finds that the Authority’s proposed Enforcement rule is consistent with the procedural rule. As with the Commission’s earlier orders approving the Authority’s Racetrack Safety and Enforcement proposed rules,² this finding formally confirms the previous determination made by the Office of the Secretary of the Commission that the Authority’s submission of its proposal was consistent with the FTC’s procedural rule.³ The remainder of this Order discusses whether the Enforcement proposed rule is “consistent with” the Act.

In deciding whether to approve or disapprove the Authority’s proposed rule, the Commission reviewed the Act’s text, the proposed rule’s text and the Authority’s explanation contained in the Notice, the Authority’s supporting documentation,⁴ ten public comments,⁵ and the Authority’s response to those comments.⁶ In total, the Commission received five comments

² See Fed. Trade Comm’n, Order Approving the Racetrack Safety Rule Proposed by the Horseracing Integrity and Safety Authority (“Racetrack Safety Order”) at 2, ___ F.T.C. ___ (Mar. 3, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/order_re_racetrack_safety_2022-3-3_for_publication.pdf; Fed. Trade Comm’n, Order Approving the Enforcement Rule Proposed by the Horseracing Integrity and Safety Authority (“Enforcement Rule Order”) at 2, ___ F.T.C. ___ (Mar. 25, 2022), <https://perma.cc/H9SJ-F9WA>.

³ See Notice, 87 Fed. Reg. at 9,349 & n.5. The Secretary’s determination that a submission complies with the procedural rule is required before its publication. See 16 C.F.R. § 1.143(e) (“The Secretary of the Commission may reject a document for filing that fails to comply with the Commission’s rules for filing . . .”).

⁴ See Horseracing Integrity & Safety Auth., *Methodology Rule Proposal Supporting Documentation*, <https://www.regulations.gov/document/FTC-2022-0014-0002> (containing Equibase data for 2019 showing (1) number of starts and total purses per state and (2) number of starts and total purses per racetrack) (“Equibase Data”).

⁵ Public comments, which were accepted until March 4, 2022, are available at <https://www.regulations.gov/docket/FTC-2022-0009/comments>. Although the docket shows eleven comments, two are from the American Association for Laboratory Accreditation, with one of those having no attachment. Compare Cmt. of Am. Ass’n for Lab. Accreditation (Feb. 22, 2022), <https://www.regulations.gov/comment/FTC-2022-0014-0003> (no attachment), with Cmt. of Am. Ass’n for Lab. Accreditation (“Lab. Accreditation Cmt.”) (Mar. 4, 2022), <https://www.regulations.gov/comment/FTC-2022-0014-0003> (attachment).

⁶ The Authority’s response, dated March 14, 2022 (“Authority’s Response”), is available on the Authority’s website, <https://hisaus.org>, and permanently at <https://perma.cc/9H48-FRWL>. The Commission appreciates the Authority’s discussion of the public comments and finds its responses useful, although not controlling or definitive, in evaluating the public comments and the decisional criteria. As it has explained in earlier orders, the Commission’s

from state agencies and five from industry participants, with views ranging from general support to outright opposition.⁷

As explained above and in the Notice, the Commission’s statutory mandate to approve or disapprove a proposed Authority rule is limited to considering only whether the proposed rule “is consistent with” the Act and the Commission’s procedural rule.⁸ The Commission stated that it would therefore focus on those comments that discuss the statutory decisional criteria: whether the proposed rule is consistent with “the specific requirements, factors, standards, or considerations in the text of the Act and the Commission’s procedural rule.”⁹ Nevertheless, the Commission received some comments that were unrelated to whether the proposed rule is consistent with the Act or procedural rule, and those comments have little bearing on the Commission’s determination.¹⁰

Several recurring concerns expressed by commenters merit only brief mention at the outset; because they were addressed extensively by the Commission’s Racetrack Safety Order, which was published toward the end of this comment period, these commenters may have been unable to benefit from its analysis. Several commenters again criticized the comment period as

consideration of the Authority’s Response is consistent with the process the Securities and Exchange Commission uses in approving or disapproving proposed rules from self-regulatory organizations under its purview, such as the Financial Industry Regulatory Authority. HISA’s sponsors “closely modeled” the Act after SEC’s oversight of FINRA. *See* Fed. Trade Comm’n, *Procedures for Submission of Rules Under the Horseracing Integrity and Safety Act*, 86 Fed. Reg. 54,819, 54,822 (Oct. 5, 2021).

⁷ *Compare* Lab. Accreditation Cmt. at 1 (“We are generally supportive of the proposed rules.”), *with* Cmt. of Thoroughbred Horsemen’s Assocs., Inc. et al. (“Thoroughbred Horsemen Cmt.”) (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0010> (“[T]he Authority’s proposed methodologies for assessments on both the interstate and intrastate level are inconsistent with the Act, fundamentally flawed, and lack the necessary evidentiary support for adoption.”).

⁸ 15 U.S.C. § 3053(c)(2).

⁹ Notice, 87 Fed. Reg. at 444. The Notice also gave guidance to would-be public commenters whose comments would not address the statutory decisional criteria but instead would more generally “bear on protecting the health and safety of horses or the integrity of horseraces and wagering on horseraces.” *Id.*

¹⁰ As the Commission previously noted, such comments may still be “helpful or productive to the broader effort of improving the safety and integrity of horseracing. In many instances, comments advanced specific suggestions for improving the rules, and the Authority has stated that it will use those comments when it proposes future rule modifications.” Racetrack Safety Order at 4 n.12.

too short.¹¹ Others again decried the piecemeal submission of proposed rules, which deprives commenters of the ability to review them holistically, or the fact that the Authority has not submitted its bylaws for Commission approval.¹² For the reasons previously given in the Racetrack Safety Order, the Commission finds that these concerns do not identify any inconsistency between the Authority’s Assessment Methodology proposed rule and the Act. Moreover, to address concerns that the statutory timelines prevented commenters from providing comments holistically addressing multiple rules, including how the approved Racetrack Safety rule and this Assessment Methodology rule interact with each other, the Commission has directed the Authority to submit proposed rule modifications to those two rules by March 3, 2023.¹³

The Order turns now to the specific provisions of the Assessment Methodology proposed rule. The Act’s direction to the Authority was to develop a proposed rule containing “a formula or methodology for determining assessments described in section 3052(f).” 15 U.S.C. § 3053(a)(11). Section 3052(f) outlines the assessments that need a methodology.¹⁴ First, by April 2, 2022 and by November 1 of future years, “the Authority shall determine and provide to each State racing commission the estimated amount required from the State—(I) to fund the

¹¹ See, e.g., Cmt. of Jared Easterling, Remington Park & Lone Star Park (“Remington Park Cmt.”) (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0008> (“We will stress here again that the public comment period is extremely short, and we would urge the Commission to extend the public comment and review period to ensure proper review of all comments and input from industry stakeholders.”). As the Commission previously explained, despite these entirely reasonable requests, the Act gives the Commission only 60 days from the date of the proposed rule’s publication by the Federal Register, so the public-comment period “counts against the clock that the Commission is on to make a decision.” Racetrack Safety Order at 5 (identifying this “unforgiving” statutory timeline as the reason the procedural rule encourages informal notice and comment by the Authority before it submits rules).

¹² See, e.g., Remington Park Cmt. at 1. As the Commission previously explained, the Authority’s bylaws were in effect before the Act’s passage and codified in the Act, only future proposed modifications to the Authority’s bylaws need to be submitted to the Commission for approval or disapproval after publication in the Federal Register and public comment. See Racetrack Safety Order at 9–10 & n.27 (citing bylaws adopted September 30, 2020).

¹³ See Racetrack Safety Order at 8.

¹⁴ “Initial funding” for the Authority’s operations before July 1, 2022 comes from “loans obtained by the Authority.” 15 U.S.C. § 3052(f)(1).

State's proportionate share of the horseracing anti-doping and medication control program and the racetrack safety program for the next calendar year; and (II) to liquidate the State's proportionate share of any loan or funding shortfall in the current calendar year and any previous calendar year." 15 U.S.C. § 3052(f)(1)(C)(i). The amount each state pays "shall be based on (aa) the annual budget of the Authority for the following calendar year, as approved by the Board; and (bb) the projected amount of covered racing starts for the year in each State" and "take into account other sources of Authority revenue." 15 U.S.C. § 3052(f)(1)(C)(ii). "Covered racing starts" is undefined, and the Act does not give guidance on how to calculate a "projected amount" of them. It does say that, whenever the Authority proposes to increase the "amount required" from each state, it must notify the Commission, which must "publish in the Federal Register such a proposed increase and provide an opportunity for public comment." 15 U.S.C. § 3052(f)(1)(C)(iv).

State racing commissions have the option to collect and remit the amount required: They can "elect[] to remit fees" if they notify the Authority of their election to do so by May 2, 2022. 15 U.S.C. § 3052(f)(2)(A). This election requires the state racing commission "to remit fees pursuant to this subsection according to a schedule established in rule developed by the Authority and approved by the Commission," 15 U.S.C. § 3052(f)(2)(B), although a state can elect to stop remitting with one year's notice. State racing commissions that make the election to remit fees retain broad discretion on how to collect the funds: "Each State racing commission shall determine, subject to the applicable laws, regulations, and contracts of the State, the method by which the requisite amount of fees, such as foal registration fees, sales contributions, starter fees, and track fees, and other fees on covered persons, shall be allocated, assessed, and collected." 15 U.S.C. § 3052(f)(2)(D).

As for those states where the state racing commission does not elect to remit fees, the Authority collects the fees: “the Authority shall, not less frequently than monthly, calculate the applicable fee per racing start multiplied by the number of racing starts in the State during the preceding month.” 15 U.S.C. § 3052(f)(3)(A). The Authority must “allocate equitably” the applicable fee “among covered persons involved with covered horseraces pursuant to such rules as the Authority may promulgate.” 15 U.S.C. § 3052(f)(3)(B). The Authority then assesses the equitably allocated fee on covered persons and collects the fee assessed “according to such rules as the Authority may promulgate.” 15 U.S.C. § 3052(f)(3)(C)(i). State racing commissions that do not elect to remit fees “shall not impose or collect from any person a fee or tax relating to anti-doping and medication control or racetrack safety matters for covered horseraces.” 15 U.S.C. § 3052(f)(3)(D). Principally, these are “the specific requirements, factors, standards, or considerations in the text of the Act” with which the Commission will assess the consistency of the Authority’s Assessment Methodology proposed rule.¹⁵

Proposed Rule 8510 incorporates definitions from the Act for “Covered Horserace” and “Racetrack” and introduces three newly defined terms that build on one another: “*Projected Starts* means the number of starts in Covered Horseraces in the previous 12 months as reported by Equibase, after taking into consideration alterations in the racing calendar of the relevant State(s) for the following calendar year”; “*Projected Purse Starts* means (i) The total amount of purses for Covered Horseraces as reported by Equibase (not including the Breeders’ Cup World Championships Races), after taking into consideration alterations in purses for the relevant State(s) for the following calendar year, divided by (ii) the Projected Starts for the following calendar year”; and “*Annual Covered Racing Starts* means, for the following calendar year, the

¹⁵ Notice, 87 Fed. Reg. at 9,351.

sum of: (i) 50 percent of the number of Projected Starts; plus (ii) 50 percent of the number of Projected Purse Starts.”¹⁶

Proposed Rule 8520 is entitled “Annual Calculation of Amounts Required.” Proposed Rule 8520(a)–(b) provides the processes for state racing commissions to make the election to remit fees¹⁷ and for the Authority to inform those states of each annual amount required, and proposed Rule 8520(d) specifies that such states remit one-twelfth of the annual amount required each month.¹⁸ Proposed rule 8520(f) identifies the physical mailing address and email address to which notices directed to the Authority should be sent.

The methodology for calculating the annual amount required of a state racing commission that elects to remit fees is provided by proposed Rule 8520(c), while proposed Rule 8520(e) specifies the methodology for states that do not elect to remit fees.¹⁹ These two provisions received the most public comments, so this Order reproduces them here:

8520(c)

Upon the approval of the budget for the following calendar year by the Board of the Authority, and after taking into account other sources of Authority revenue, the Authority shall allocate the calculation due from each State pursuant to 15 U.S.C. 3052(f)(1)(C)(i) proportionally by each State’s respective percentage of the Annual Covered Racing Starts. The proportional calculation for each State’s respective percentage of the Annual Covered Racing Starts shall be calculated as follows:

(1) The total amount due from all States pursuant to 15 U.S.C. 3052(f)(1)(C)(i) shall be divided by the Projected Starts of all Covered Horseraces; then

(2) 50 percent of the quotient calculated in (c)(1) is multiplied by the quotient of

(i) the relevant State’s percentage of the total amount of purses for all Covered Horseraces as reported by Equibase (not including the Breeders’ Cup World Championships Races), after taking into consideration alterations in purses for the relevant State for the following calendar year; divided by

(ii) the relevant State’s percentage of the Projected Starts of all Covered

¹⁶ *Id.* at 9,352.

¹⁷ The Act does not appear to provide a method for states to elect to remit fees after 2022, and neither does the proposed Rule 8520(a): “[T]he State racing commission shall notify the Authority in writing on or before May 2, 2022 of its decision to elect to remit fees.” *Id.*

¹⁸ *See id.*

¹⁹ *See id.*

Horseraces starts; then

(3) the sum of the product of the calculation in (c)(2) and 50 percent of the quotient calculated in (c)(1) is multiplied by the Projected Starts in the applicable State.

Provided however, that no State's allocation shall exceed 10 percent of the total amount of purses for Covered Horseraces as reported by Equibase in the State (not including the Breeders' Cup World Championships Races). All amounts in excess of the 10 percent maximum shall be allocated proportionally to all States that do not exceed the maximum, based on each State's respective percentage of the Annual Covered Racing Starts.

8520(e)

If a State racing commission does not elect to remit fees pursuant to 15 U.S.C. 3052(f)(2):

(1) The Authority shall on a monthly basis calculate and notify each Racetrack in the State of the applicable fee per racing start for the next month based upon the following calculations:

- (i) Calculate the amount due from the State as if the State had elected to remit fees pursuant to 15 U.S.C. 3052(f)(2) (the "Annual Calculation").
- (ii) Calculate the number of starts in Covered Horseraces in the previous twelve months as reported by Equibase (the "Total Starts").
- (iii) Calculate the number of starts in Covered Horseraces in the previous month as reported by Equibase (the "Monthly Starts").
- (iv) The applicable fee per racing start shall equal the quotient of Monthly Starts, divided by Total Starts, multiplied by the Annual Calculation.

(2) The Authority shall on a monthly basis calculate and notify each Racetrack in the jurisdiction of the following calculations:

- (i) Multiply the number of starts in Covered Horseraces in the previous month by the applicable fee per racing start calculated pursuant to paragraph (e)(1)(iv) above.
- (ii) The calculation set forth in 15 U.S.C. 3052(f)(3)(A) shall be equal to the amount calculated pursuant to paragraph (e)(2)(i) (the "Assessment Calculation").

(3) The Authority shall allocate the monthly Assessment Calculation proportionally based on each Racetrack's proportionate share in the total purses in Covered Horseraces in the State over the next month and shall notify each Racetrack in the jurisdiction of the amount required from the Racetrack. Each Racetrack shall pay its share of the Assessment Calculation to the Authority within 30 days of the end of the monthly period.

(4) Not later than May 1, 2022 and not later than November 1 each year thereafter, each Racetrack in the State shall submit to the Authority its proposal for the allocation of the Assessment Calculation among covered persons involved with Covered Horseraces (the "Covered Persons Allocation"). On or before 30 days from the receipt of the Covered Persons Allocation from the Racetrack, the Authority shall determine whether the Covered Persons Allocation has been allocated equitably in accordance with 15 U.S.C. 3052(f)(3)(B), and, if so, the

Authority shall notify the Racetrack that the Covered Persons Allocation is approved. If a Racetrack fails to submit its proposed Covered Person Allocation in accordance with the deadlines set forth in this paragraph, or if the Authority has not approved the Covered Persons Allocation in accordance with this paragraph, the Authority shall determine the Covered Persons Allocation for the Racetrack. Upon the approval of or the determination by the Authority of the Covered Persons Allocation, the Racetrack shall collect the Covered Persons Allocation from the covered persons involved with Covered Horseraces.²⁰

Some commenters denominated proposed Rule 8520(c) as the “interstate” methodology and proposed Rule 8520(e) as the “intrastate” methodology,²¹ a useful shorthand this Order will employ. Because the new definitions of proposed Rule 8510 interrelate so directly with the two methodologies described, this Order will discuss the public comments, Authority’s response, and Commission’s findings organized by the two methodologies rather than by numerical rule provision.

a. Rule 8520(c)—Interstate Methodology

Proposed Rule 8520(c)’s interstate methodology relies on a proposed definition of “Annual Covered Racing Starts,” which itself relies on the novel proposed definitions of “Projected Starts” and “Projected Purse Starts.” Under the proposed methodology, each state’s fee assessment would be based on Annual Covered Racing Starts, considering both “Projected Starts” and “Projected Purse Starts.”

Projected Starts is defined as the number of times that covered horses are projected to run in covered horseraces (races of Thoroughbreds on which wagers are placed) in the coming year (based on the previous year’s number of starts as reported by an industry organization, Equibase).²²

²⁰ *Id.* at 9,352–53.

²¹ *See, e.g.,* Thoroughbred Horsemen Cmt. at 1.

²² Covered horseraces are those that involve wagering on “covered horses,” which are, as of the Act’s passage, Thoroughbreds that have been timed in a workout and not yet retired, but in the future covered horses may include

Projected Purse Starts relies on Equibase data for starts and total purses. By incorporating purses alongside Projected Starts into its definition of Annual Covered Racing Starts, the Authority’s proposed interstate methodology assesses higher fees to states with bigger purses as well as to those with more starts. “The Authority was not in favor of simply treating all racing starts in a given State uniformly as a ‘covered racing start’ because this would result in an inequitable allocation of costs. For example, if all starts in all races at all tracks were treated equally, West Virginia would have a larger proportionate share than Kentucky, even though the purses and entry fees generated by the Kentucky races dwarf those generated by West Virginia races.”²³ The Authority contended that using only Projected Starts would have been unfaithful to the Act, whose “requirements for proportionality among States, equitable allocation among Covered Persons within each State and the requirement imposed on the Authority to establish by rule ‘a formula or methodology for determining assessments’ demonstrate that basing allocations on starts alone would not meet the full requirements of the Act.”²⁴

A final component of the proposed interstate methodology, in the final proviso of proposed Rule 8120(c), is a cap on any state’s amount so that no state needs to pay more than 10% of its total purse. The Authority justified this cap, in the Notice, as necessary to “avoid an inequitable or skewed allocation.”²⁵

Nine of the ten commenters addressed the proposed interstate methodology, including all five state racing commissions. The California Horse Racing Board (“California Board”) noted that, until the Authority sets its budget, it is impossible to know whether states might hit the 10%

other kinds of horses depending on the affirmative election of a state racing commission or a “breed governing organization.” 15 U.S.C. § 3051(4)–(5).

²³ Notice, 87 Fed. Reg. at 9,350. *See also id.* & n.13 (“Higher purses greatly influence the ability of Covered Persons to bear costs. It is also anticipated that stakes races and graded stakes races will have higher testing costs.”)

²⁴ *Id.* at 9,350 n.14.

²⁵ *Id.* at 9,350 n.16.

cap, which the California Board “doubts meets the Commission’s criteria that the proposed rule is consistent with the Act.”²⁶ Its comment reiterated the Act’s three express considerations for the interstate assessment, which were the annual budget as approved by the Board, the projected amount of covered racing starts, and other sources of Authority revenue: “Whether ultimately equitable or not, the Act only refers to covered racing starts. In contrast, the Authority’s proposed formula considers total purses, . . . which is not a basis of fee calculation under the Act.”²⁷ The California Board parsed the Act and concluded that the Authority’s references in the Notice to statutory language such as “proportionate share” and “equitably” were inapposite to the question of how to calculate each state’s allocation. Ultimately, the California Board “agrees that there are more equitable ways to assess fees than what was designated in the Act, [but] . . . the Authority is usurping its powers and is promulgating a rule inconsistent with the Act.”²⁸

The Florida Division of Pari-Mutuel Wagering within its Department of Business and Professional Regulation (“Florida Division”) shared similar thoughts, concluding that the proposed interstate methodology “unfairly and arbitrarily assesses costs on states far beyond what is provided in the” Act “and doesn’t contain any ability for states to contest HISA’s budget or the ultimate cost assessment.”²⁹ The Florida Division stated that the proposed interstate methodology “focuses on a metric that is not part of the Act’s basis of calculation of fees—purses.”³⁰ The Florida Division similarly argued that “the legislature has emphasized the need for large purses and supplemented purses with funds from other areas of gaming,” so in its view

²⁶ Cmt. of Scott Chaney, Exec. Dir., Cal. Horse Racing Bd. (Mar. 3, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0004>.

²⁷ *Id.* at 2.

²⁸ *Id.* at 3.

²⁹ Cmt. of Louis Trombetta, Dir., Fla. Div. of Pari-Mutuel Wagering, Dep’t of Bus. & Prof. Regulation (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0011>.

³⁰ *Id.*

the proposal “arbitrarily punishes states with large purses.”³¹ The Florida Division also expressed alarm at the 10% cap and especially the effect it will have on large-purse states in the future: “[O]nce the Authority’s budget reaches a certain amount, it is a guarantee that states with greater purses will take on even more of a financial responsibility for funding the [A]uthority than originally contemplated.”³²

The Indiana Horse Racing Commission (“Indiana Commission”) concurred, specifically identifying the difficulty of commenting on the proposed interstate methodology “without the release of the underlying budget assumptions.”³³ The Indiana Commission described the Authority’s inclusion of purse in Annual Covered Race Starts as “not equitable” because “one state makes 147% more covered starts than another, but has a per start fee that is 18% lower than the state that races less—this basically rewards poor purse structure and over-racing the horse population at the track.”³⁴ And the Indiana Commission thought that the 10% cap was “[e]ven less equitable” because it could require high-purse states to subsidize low-purse states.³⁵

The Oklahoma Horse Racing Commission (“Oklahoma Commission”) did not object to the use of purse in Annual Covered Race Starts, but it instead raised an objection to the use of Equibase data: “There have been several instances with Equibase reporting inflated numbers in comparison to actual audited track and/or commission records. A section should be added to handle these types of discrepancies for correction by actual audited records.”³⁶ The Oklahoma Commission also supported the substance of the one pre-submission informal comment that the

³¹ *Id.* at 2.

³² *Id.* at 3.

³³ Cmt. of Deena Pitman, Exec. Dir., Ind. Horse Racing Comm’n (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0012>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Cmt. of Kelly Cathey, Exec. Dir., Okla. Horse Racing Comm’n (“Okla. Comm’n cmt.”) (Mar. 4, 2022), at 2, <https://www.regulations.gov/comment/FTC-2022-0014-0012>.

Authority had received, inquiring about whether states that enter into voluntary agreements with the Authority to conduct certain tasks will get credit for those costs.³⁷

The Texas Racing Commission (“Texas Commission”) reiterated many of its previously stated objections to the Act and the Authority.³⁸ With respect to the Assessment Methodology proposed rule, the Texas Commission objected to the 10% cap as providing “a clear advantage to the four (4) states that currently dominate horse racing: New York, Florida, Kentucky, and California.”³⁹ The Texas Commission also noted that “the Authority has not provided any loan amounts to be repaid by States nor any annual budget necessary for the Authority to operate.”⁴⁰ The Texas Commission joined the California Board, Florida Division, and Indiana Commission in objecting to the definition of Annual Covered Horse Race as going “beyond what Congress intended by including race purses.”⁴¹ The Texas Commission also alleged that some of the Equibase data were inaccurate because they include some horseraces that are not “covered horseraces.”⁴²

Four industry commenters also opposed the inclusion of purse in the definition of Annual Covered Horse Race. The Thoroughbred Horsemen’s Associations, Inc. and four other industry participants (“Thoroughbred Horsemen”) provided the most comprehensive comment. They contended that the Act requires that assessments “be proportionally allocated by the number of

³⁷ See Notice, 87 Fed. Reg. at 9,351; Okla. Comm’n cmt. at 1. The Oklahoma Commission also reiterated its objections, stated in its previous comments to the Racetrack Safety and Enforcement proposed rules, to the Act’s constitutionality. *See id.*

³⁸ See Cmt. of Amy Cook, Exec. Dir., Tex. Racing Comm’n (“Tex. Comm’n cmt.”) (Mar. 4, 2022), at 1–3, 6–8, <https://www.regulations.gov/comment/FTC-2022-0014-0012> (proposing that the Federal Trade Commission request statutory authority to administer a cooperative agreement and congressional allocations to fund grants, alleging that the Act violates the anti-commandeering doctrine).

³⁹ *Id.* at 4.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *See id.*

racing starts in each State.”⁴³ The Thoroughbred Horsemen labeled the newly defined term Projected Purse Starts “a misnomer, because it is *not* a measurement of the number of starts but rather is a measure of *purse value* (on a per-start basis).”⁴⁴ The Thoroughbred Horsemen further argued that the proposed interstate methodology fails to achieve its own stated goal of “equitable” outcomes, because it “treats similar states differently based on arbitrary factors that the Authority has apparently not considered.”⁴⁵ The Thoroughbred Horsemen also shared the objection raised by several states that it is difficult to evaluate the proposal “without knowing the relative costs and anticipated funding allocations in each state.”⁴⁶ And they explained their fear that the incentives created by the inclusion of purse in Annual Covered Racing Starts would undermine the Act’s goals because states would run more races for lower purses and distribute money outside the purse structure, which would prove “dangerous to our most vulnerable horses.”⁴⁷ The Thoroughbred Horsemen recommended an interim final rule that specifies an interstate methodology using only starts and not purses.⁴⁸

The New York Thoroughbred Horsemen’s Association, New York Racing Association, Inc., and New York Thoroughbred Breeders, Inc. (“New York Horsemen”) wrote “to support and echo a number of critical points” made by the Thoroughbred Horsemen, with which they are affiliated, but also to object specifically to the “disproportionate amount of the financial burden

⁴³ Cmt. of Thoroughbred Horsemen’s Assoc., Inc. et al. (“Thoroughbred Horsemen cmt.”) (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0010>. The Thoroughbred Horsemen also cited to several versions of the Act before the one that was passed, which contained clear language specifying that assessments be based on a base fee “multiplied by the number of racing starts in the State in the previous month.” *Id.* at 5 n.4.

⁴⁴ *Id.* at 4. The Thoroughbred Horsemen also identified what they thought were math errors in the Equibase Data. *See id.* at 5 & n.3

⁴⁵ *Id.* at 3. The Thoroughbred Horsemen also pointed out that the term “equitably” appears not in the Act’s provisions for interstate allocations but instead in the Act’s provisions for intrastate allocations. *See id.* at 6. And they contended that the significant parts of the Authority’s budget “will scale with the number of racing starts, because each horse will need to be tested—and they will have little or nothing to do with purse value.” *Id.* at 8.

⁴⁶ *Id.* at 3.

⁴⁷ *Id.* at 8.

⁴⁸ *See id.* at 13.

that will fall on New York racing stakeholders.”⁴⁹ The New York Horsemen also echoed the Thoroughbred Horsemen in urging the Commission to adopt an interim final rule.

The Florida Horsemen’s Benevolent and Protective Association (“Florida Horsemen”) echoed the views of other commenters: “There is no provision in the HISA statute to allow for consideration of purses in any given state when allocating cost, nor is there a provision to cap the cost and assess any shortfall to states where the assessment does not rise above the cap.”⁵⁰ The Florida Horsemen shared other commenters’ views that it was difficult to assess the proposed interstate methodology without “the ability to review the actual or even estimated HISA budget.” The Florida Horsemen stated a concern about the Assessment Methodology proposed rule’s “cost to the State of Florida,” which “will be high” even though the “cost of doing business and the cost of living are high.”⁵¹

Finally, the racetracks Remington Park and Lone Star Park (“Remington Park”) expressed concern about the use of Equibase data, “a capitalized term that is not defined in the Rule or the Act.”⁵² As with the Oklahoma Commission, Remington Park contended that Equibase data are sometimes wrong and that the methodology needs “a mechanism to reconcile the delta between the actual number of starts and purse money versus the projected numbers initially reported.”⁵³ Remington Park also shared the complaint of other commenters that it found commenting on the Assessment Methodology proposed rule difficult without knowing the Authority’s projected budget.⁵⁴ Unlike most other commenters, however, Remington Park does

⁴⁹ Cmt. of N.Y. Thoroughbred Horsemen’s Assoc. et al. (“N.Y. Horsemen cmt.”) (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0013>.

⁵⁰ Cmt. of Fla. Horsemen’s Benevolent & Prot. Assoc. (“Fla. Horsemen cmt.”) (Mar. 4, 2022), at 1, <https://www.regulations.gov/comment/FTC-2022-0014-0007>.

⁵¹ *Id.* at 3.

⁵² Remington Park cmt. at 1.

⁵³ *Id.* at 2.

⁵⁴ *See id.* at 1.

“appreciate the Authority looking to purse money in addition to starts when it determines the allocation of the assessment.”⁵⁵ But it objects to the 10% cap as “favorable to New York, Florida, Kentucky, and California.”⁵⁶

The Authority’s response to these comments about its proposed interstate methodology disagreed with the majority of the commenters who contended that the consideration of purses alongside starts was inconsistent with the Act.⁵⁷ The Authority described the requirement of § 3053(a)(11) for “a formula or methodology for determining assessments” as a “broad directive.”⁵⁸ Its response placed particular weight on § 3052(f)(1)(C)(ii)(I)’s phrase “based on” in the Act’s command that the amount owed be “based on” the Authority’s budget and “the projected amount of covered racing starts for the year in each State.” “If Congress had intended those two factors to constitute the entire and exclusive grounds for calculating assessments, there would have been no reason for it to direct the Authority to develop, and for the FTC to consider and approve, a rule setting forth ‘a formula or methodology for determining assessments.’ ”⁵⁹ The Authority relied on three reported decisions from federal courts of appeals for its proposition that “based on” is synonymous with “arising from” and refers to a starting point or foundation—exactly the role, the Authority said, that “covered racing starts” plays in its Annual Covered Racing Starts.⁶⁰ It also contended that a contrary reading would lead to “absurd results.”⁶¹

According to the Authority, the 10% cap was misunderstood by the Texas Commission and Remington Park, whose “contention that New York, Florida, Kentucky and California will

⁵⁵ *Id.* at 2.

⁵⁶ *Id.* at 2. Remington Park cites the same data as the Texas Commission. *Compare id. with* Tex. Comm’n cmt. at 4.

⁵⁷ *See* Authority’s Response at 4–5.

⁵⁸ *Id.* at 4

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* In a similar vein, the Authority noted: “Curiously, [the Texas and Indiana Commissions] advance a statutory interpretation that will result in higher fees allocated to their states.” *Id.* at 3 n.10.

unfairly benefit from the cap is incorrect.”⁶² The Authority’s response explained why by proposing a hypothetical annual budget of \$50,000,000 and using the 2019 Equibase data, in which the beneficiaries of the cap are small-purse states such as Idaho, Montana, North Dakota, Nebraska, Nevada, Oregon, and Wyoming—but those states in total would have their assessments reduced by only \$139,384. The shift in the payments required by the rest of the states would be proportionally small: The “cap would increase Florida’s proportionate share from \$5,073,794 to \$5,088,076, Indiana’s proportionate share from \$1,224,433 to \$1,227,880, Oklahoma’s proportionate share from \$1,287,616 to \$1,291,241, and Texas’s proportionate share from \$826,034 to \$828,359.”⁶³ In short, the cap is designed to help small-purse states because it is a 10% cap on a state’s assessment compared to the state’s purse, not a state’s purse compared to the national purse (as the Texas Commission and Remington Park inferred).

As for the concerns that the Oklahoma Commission and Remington Park raised about Equibase, the Authority responded: “Equibase is the official supplier of racing information and statistics to America’s Best Racing, Breeders’ Cup, Daily Racing Form, National Thoroughbred Racing Association, The Jockey Club, Thoroughbred Racing Associations of North America, Inc., TVG, and XpressBet,” which represent together more than 85% of the total wagers in the United States and Canada.⁶⁴ “Nevertheless, the Authority will consider in future rulemaking whether to include a process that allows a racetrack to challenge the relevant Equibase numbers.”⁶⁵

The Authority explained that the timelines to which some commenters objected are driven by the Act and the Commission’s rules to implement the Act’s deadlines. “The Act

⁶² *Id.* at 6.

⁶³ *Id.*

⁶⁴ *Id.* at 3.

⁶⁵ *Id.*

requires the Authority no later than 90 days before the program effective date of July 1, 2022, to determine and provide to each State racing commission the estimated amounts required from the State to fund HISA,” and “the Authority will comply with the 90-day deadline imposed by Congress.”⁶⁶ But because the Commission needs the 60 days that the Act affords it to take public comments on the Authority’s proposed rules, consider those comments, and issue a reasoned decision approving or disapproving those rules, the Commission’s procedural rule requires the Authority to prepare and submit the Assessment Methodology proposed rule well in advance of its statutory budget deadline.⁶⁷

Despite several arguments in comments against considering purses in the definition of Annual Covered Race Starts, the Commission finds that the proposed interstate methodology is consistent with the Act, which requires the Authority to develop “a formula or methodology for determining assessments,” § 3053(a)(11). These amounts owed “shall—(I) be based on—(aa) the annual budget of the Authority for the following calendar year, as approved by the Board; and (bb) the projected amount of covered racing starts for the year in each State; and (II) take into account other sources of Authority revenue,” § 3052(f)(1)(C)(i). The relevant provisions from proposed Rule 8520(c) are that, after the Authority’s Board approves its budget and other sources of revenue are taken into account, “the Authority shall allocate the calculation due from each State pursuant to 15 U.S.C. § 3052(f)(1)(C)(i) proportionally by each State’s respective percentage of the Annual Covered Racing Starts.”⁶⁸ Annual Covered Racing Starts is defined in proposed Rule 8510 as equal parts Projected Starts and Projected Purse Starts, with the latter defined as total purse divided by Projected Starts.⁶⁹

⁶⁶ *Id.* at 2.

⁶⁷ *See id.*

⁶⁸ Notice, 78 Fed. Reg. at 9,352.

⁶⁹ *See id.*

The statutory-consistency question before the Commission is thus whether the methodology of proposed Rule 8520(c) is consistent with the Act’s requirement that it be “based on . . . the projected amount of covered racing starts for the year in each State,” § 3052(f)(1)(C)(ii). The plain meaning of the phrase “based on” confirms that the proposed methodology is consistent with the Act; without a further restriction such as “solely” or “exclusively” in the Act’s text, the phrase is naturally non-exhaustive. Here, “projected amount of covered racing starts” is undefined in the Act, and the Authority chose to define it as Annual Covered Racing Starts, while opponents of its approach would have defined it exclusively as the Authority defined Projected Starts (in other words, no consideration of purses). But the proposed interstate methodology is still “based on” Projected Starts: As a state’s Projected Starts increase its assessment increases, and as a state’s Projected Starts decrease its assessment decreases. Projected Starts are thus the starting point and the foundation of the amount owed.

Public commenters’ arguments in favor of a finding of inconsistency were unpersuasive. The Thoroughbred Horsemen, for example, did not address the key, ambiguous phrase “based on,” although they noted that Projected Purse Starts is a “misnomer” because it represents a financial number rather than starts. This may be true, but it does not compel a finding of inconsistency with the Act.

The Authority’s response persuasively illustrated with examples that the Oklahoma Commission and Remington Park misunderstood the effect of the 10% cap in the proviso to proposed Rule 8520(c)—it does not benefit big-purse states such as California, Florida, Kentucky, and New York but instead will require them to marginally increase their allocations to ensure that no state pays more than 10% of its own total purse in assessments. The other commenters that objected to the 10% cap did not identify an inconsistency with the Act. While

the potential inconsistency of including Projected Purse Starts alongside Projected Starts within the definition of Annual Covered Race Starts merited more discussion, the Commission finds that the minor adjustments that may be required to bring small-purse states' assessments below 10% of their total purses still leave each state's assessment "based on" covered race starts since the small-purse states' reductions "shall be allocated proportionally to all States that do not exceed the maximum, *based on* each State's respective percentage of the Annual Covered Racing Starts."⁷⁰

While the Commission concludes that the interstate methodology proposed by the Authority is consistent with the Act, it is worth noting that there are likely multiple methodologies that the Authority could have proposed that would be consistent with the Act. Accordingly, the Commission encourages states that would prefer another methodology to continue engaging with the Authority, which in its response committed to keeping an open mind about the interstate methodology of the Assessment Methodology proposed rule: "The Authority will review [it] on an annual basis to ensure that the formula that forms the basis of the assessments is equitable and, as a part of this review, the Authority will consider the comments that argue otherwise." The Authority's first proposed rule modification to Assessment Methodology is due on March 3, 2023.⁷¹

b. Rule 8520(e)—*Intrastate Methodology*

Proposed Rule 8520(e)'s intrastate methodology applies in states that do not elect to remit fees under § 3052(f)(2)(A). It builds on proposed Rule 8520(c)'s calculations and then relies on two new numbers: "Total Starts" is "the number of starts in Covered Horseraces in the previous twelve months as reported by Equibase" and "Monthly Starts" is the same number in

⁷⁰ Notice, 87 Fed. Reg. at 9,352 (emphasis added).

⁷¹ See Racetrack Safety Order at 8.

the previous month.⁷² The “applicable fee per racing start” that the Authority must calculate and provide monthly under § 3052(f)(3)(A) is calculated by taking the state’s allocation from Rule 8520(c) as though it were remitting fees and multiplying it by Monthly Starts and then dividing it by Total Starts.⁷³ Each non-remitting state’s monthly allocation owed is the “applicable fee per racing start” multiplied by the Monthly Starts.⁷⁴ Section 3052(f)(3)(B) states that the Authority “shall allocate equitably” this monthly allocation owed by collecting it “from among covered persons involved with covered horseraces pursuant to such rules as the Authority may promulgate.” The Authority decided that it would achieve equitable allocation by collecting directly from the racetracks based on each racetrack’s share of the total purse in that state over the next month.⁷⁵ Each racetrack, for its part, must submit an annual proposal to the Authority describing how it will equitably allocate its amount owed among covered persons involved with covered horseraces at the racetrack.⁷⁶ If a racetrack fails to timely submit a proposal or the Authority finds the proposal inequitable, the Authority determines the equitable allocation for the racetrack.⁷⁷

The intrastate methodology received fewer comments than the interstate methodology.⁷⁸ Remington Park objected that the proposed intrastate methodology “places the burden of collection on the Racetrack.”⁷⁹ Remington Park argued that this burden properly belongs with the Authority: “The Authority is responsible for collecting its fees and cannot delegate that

⁷² Notice, 87 Fed. Reg. at 9,352 (proposed Rule 8520(e)(1)).

⁷³ *See id.*

⁷⁴ *See id.* (proposed Rule 8520(e)(2)).

⁷⁵ *See id.* (proposed Rule 8520(e)(3)).

⁷⁶ *See id.* (proposed Rule 8520(e)(4)).

⁷⁷ *See id.*

⁷⁸ Comments that might equally apply to both, such as distrust of Equibase data’s reliability, were addressed in the discussion of comments about the interstate methodology.

⁷⁹ Remington Park cmt. at 3.

obligation to the racetracks.”⁸⁰

The Florida Horsemen expressed a similar concern: “A racetrack does not have the legal authority to assess fees to Covered Persons or to collect such fees as suggested in the statute (‘foal registration fees, sales contributions, starter fees, and track fees, and other fees on covered persons’).”⁸¹ A conflict of interest is inherent, stated the Florida Horsemen, in “allowing one stakeholder the ability to determine cost for all stakeholders, one that would leave the methodology vulnerable to litigation.”⁸² Finally, the Florida Horsemen objected to the use of purse to divide the monthly amount owed among racetracks in a state: “Under no circumstances should purse money be the ONLY factor used to determine the assessment of the cost of HISA. We do not believe it should be a part of the calculation at all. There is no justification, legal or otherwise, for penalizing one racetrack to the benefit of another.”⁸³

The Thoroughbred Horsemen identified “two flaws with the intrastate assessment mechanism: (1) it empowers one covered stakeholder (racetracks) to set and collect fees from other stakeholders, in a departure from existing practice and the Act’s text, and (2) it relies entirely on purse-driven allocation formula, which also ignores the Act’s text to consider racing starts as part of the allocation.”⁸⁴ The Thoroughbred Horsemen argued that having racetracks take the lead for determining equitable allocation of assessments “sets the stage for discord . . . and could lead disaffected horsemen, for example, to invoke their protected rights under the Interstate Horseracing Act, and cause a cessation of racing and/or simulcasting.”⁸⁵ The Thoroughbred Horsemen concluded that the intrastate methodology “is squarely inconsistent

⁸⁰ *Id.*

⁸¹ Fla. Horsemen cmt. at 3 (quoting 15 U.S.C. § 3052(f)(2)(D)).

⁸² *Id.*

⁸³ *Id.* at 4 (underlining and capitalization in original)

⁸⁴ Thoroughbred Horsemen cmt. at 9.

⁸⁵ *Id.* (citing 15 U.S.C. § 3004).

with the Act,” which, in their view, places the burden on the Authority to “perform the allocation, assessment, and collection” and requires “per-start allocation” rather than one “based on a purse structure.”⁸⁶ The New York Horsemen stated the same concern.⁸⁷

The Authority’s response defended its choice to place the responsibility on covered racetracks to collect fees, subject to its approval of the racetrack’s proposal for equitably allocating assessments among covered persons.⁸⁸ As for several commenters’ concerns about conflicts of interest that might arise from assigning racetracks this task, the Authority responded: “Rule 8520(e)(4) does not give the racetracks the unfettered discretion to determine the allocations for Covered Persons. The racetracks are required to submit a proposal of the allocation of the Assessment Calculation among Covered Persons to the Authority.”⁸⁹ And the Authority stated that it will approve the proposals only if it determines that the proposal “allocated equitably.”⁹⁰ If the Authority finds the standard unmet, then “the Authority determines the Covered Persons Allocation for the applicable racetrack.”⁹¹ The Authority stated that it planned to issue guidance on the subject under 15 U.S.C. § 3054(g).

As for comments that argued that having racetracks collect the equitable allocations is inconsistent with the Act, the Authority replied that “the Act empowers the Authority to collect these fees ‘according to such rules as the Authority may promulgate,’ . . . precisely what Rule 8520(e)(4) does . . . [because] racetracks already have accounting systems in place to collect and disburse money from and to owners, jockeys, and trainers.”⁹²

The Commission finds that the Authority’s proposed intrastate methodology is consistent

⁸⁶ *Id.* at 9–10.

⁸⁷ *See* N.Y. Horsemen at 5–6.

⁸⁸ *See* Authority’s Response at 5–6.

⁸⁹ *Id.* at 5.

⁹⁰ *Id.* at 6.

⁹¹ *Id.*

⁹² *Id.* (quoting 15 U.S.C. § 3052(f)(3)(C)).

with the Act. The commenters' contention that, by issuing a rule requiring covered racetracks to collect equitable allocations from covered persons under an Authority-approved proposal, the Authority has unlawfully delegated a statutory command is unavailing. Instead, the Authority is exercising the Act's permission for it to "collect such fee according to such rules as the Authority may promulgate." 15 U.S.C. § 3052(f)(3)(C)(i). That the Authority collects the assessed fee only from racetracks instead of from a broader set of covered persons is of no moment. So too for the complaint that the Authority unlawfully delegated the allocation required by § 3052(f)(3)(B)—it retains ultimate control over the equitable allocation, stepping in if a racetrack does not timely propose an equitable allocation or proposes an inequitable allocation, and no provision of the Act conflicts with the Authority-racetrack partnership.

The Commission has previously noted that guidance, which the Authority is permitted to issue and said it plans to here, must be limited to the circumstances outlined in the Act.⁹³ The same concern arises here with the contemplated guidance concerning equitable allocations in states that elect not to remit fees. If the contemplated guidance is "an interpretation of an existing rule, standard, or procedure of the Authority; or (ii) a policy or practice with respect to the administration or enforcement of such an existing rule, standard, or procedure," that is allowed.⁹⁴ Guidance must "not have the force of law."⁹⁵ Anything that would have the force of law must be submitted to the Commission for public comment and approval or disapproval.

Two commenters, the Thoroughbred Horsemen and New York Horsemen, raised a plausible inconsistency about the interstate methodology's use of purse information. The Act

⁹³ See Racetrack Safety Order at 28 ("The Commission notes, however, that Guidance may be an inappropriate vehicle for the Authority's future educational program proposals inasmuch as the educational programs are required—only proposed rules approved by the Commission can impose binding requirements, and the broader "horseracing safety program" of which the educational programs are one required element must, under the Act, follow formal notice and comment procedures like this Racetrack Safety proposed rule did.").

⁹⁴ 15 U.S.C. § 3054(g)(1)(A).

⁹⁵ 16 C.F.R. § 1.140 (definition of HISA Guidance).

provides that, in states that do not elect to remit fees, “the Authority shall, not less frequently than monthly, calculate the applicable fee per racing start multiplied by the number of racing starts in the State during the preceding month.” 15 U.S.C. § 3052(f)(3)(A). There is no “based on” in this statutory direction, and the number of racing starts in a state’s preceding month is a direct multiplier. But “the applicable fee per racing start” is not defined elsewhere in the Act. Proposed Rule 8520(e) defines it in a reasonable way that includes taking the most recent month’s starts (“Monthly Starts”) divided by the most recent year’s starts (“Total Starts”) and multiplying that ratio by the amount the state would have remitted if it elected to remit fees. The point of the calculation obligation of § 3052(f)(3)(A) is to facilitate predictable monthly billing (as distinguished from the annual fees remitted by states), not to preclude the consideration of purses. So too the Authority’s decision to use purses to allocate fees to racetracks within a state is reasonable and not precluded by any provision of the Act.

* * *

For the preceding reasons, the Commission finds that the Horseracing Integrity and Safety Authority’s proposed rule on Assessment Methodology is consistent with the Horseracing Integrity and Safety Act of 2020 and the Commission’s procedural rule governing submissions under the Act. Accordingly, the Assessment Methodology rule is APPROVED.



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, TX 78711-2080
(512) 833-6699

April 14, 2022

Horseracing Integrity and Safety Authority
ATTN: Lisa Lazarus
West Main Street, Suite 222
Lexington, KY 40507

*Via Certified Mail Return Receipt Requested 401
and via email feedback@hisaus.org and
john@rrrfirm.com*

Re: HISA Voluntary Implementation Agreements

Dear Ms. Lazarus:

The mission of the Texas Racing Commission is to ensure the safety and integrity of pari-mutuel horseracing in the State of Texas. As the government agency charged with the protection of the horses, licensed participants and the public that engage in and attend the sport in Texas, we agree that increased uniformity of safety standards among the states is an appropriate direction for the future of the sport. However, the Texas Racing Act¹ passed by our state legislature is the only authority our agency is obligated to follow to license participants and regulate horseracing in the State of Texas.

On March 27, 2022, the agency received correspondence from HISA Board member, Tom DiPasquale, with the attached draft "voluntary" agreement, stating the FTC 2000 series rules, taking effect on July 1, 2022, and governing racetrack safety and accreditation, provide in certain rules that the state commissions may volunteer to work with HISA to oversee implementation.

Our agency does not have the legal authority to volunteer to enforce federal statutes, nor the resources to assist you, even if we were enabled to do so. I have proposed, and again direct your attention to a viable alternative solution that may work for all racing commissions: a federal-state cooperative agreement grant program. This solution is a truly effective partnership answers the resourcing question we are all struggling with: How to create uniform standards given the resource constrained environment many racing commissions are facing? You can review the full proposed alternative solution in our FTC Comment filed on March 3, 2022.²

For the reasons stated above, the Texas Racing Commission declines to enter into a voluntary implementation agreement with the Horseracing Integrity and Safety Authority.

Sincerely,

Amy F. Cook
Executive Director

Enclosure (copy of HISA voluntary agreement)

cc: Texas Racing Commission Commissioners

¹ See the Texas Racing Act, codified in Subtitle A-1, Title 13, Texas Occupations Code

² <https://www.regulations.gov/comment/FTC-2022-0014-0006>

VOLUNTARY IMPLEMENTATION AGREEMENT

THIS VOLUNTARY IMPLEMENTATION AGREEMENT (this “Agreement”) is entered into as of ___ day of _____ 2022 , with an effective date of July 1, 2022 (the “Effective Date”), by and between the Horseracing Integrity and Safety Authority, Inc. a Delaware nonprofit corporation whose mailing address is 401 West Main Street, Unit 222, Lexington, Kentucky 40507 (the “Authority”), and the [redacted] Commission, an agency of state government whose mailing address is [redacted] (the “Commission”). As used herein, the “Parties” shall mean the Authority and the Commission, collectively; and a “Party” shall mean either the Authority or the Commission individually.

WHEREAS the Authority is a private, independent, self-regulatory, nonprofit corporation that was recognized for the purpose of developing and implementing a horseracing anti-doping and medication control program and a racetrack safety program for covered horses, covered persons, and covered horseraces by the Horseracing Integrity and Safety Act of 2020 (the “Act”);

WHEREAS the Commission is the independent agency of state government vested with jurisdiction to regulate the conduct of horse racing and pari-mutuel wagering on horse racing and related activities within the state of [redacted] (the “State”);

WHEREAS 15 USC § 3054(e)(2) of the Act permits the Authority to enter into agreements with State racing commissions for services consistent with the enforcement of the racetrack safety program; and

WHEREAS the Authority has determined that the Commission has the ability to implement certain areas of the racing safety program in accordance with the rules, standards, and requirements established by the Authority.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

1. Medical Director OR Intentionally Omitted¹. The [redacted] Commission/Executive Director of the Commission names and appoints _____ as Medical Director of the State (the “Medical Director”). The Parties agree that the Medical Director shall carry out the duties and responsibilities of the Medical Director set forth in the Racetrack Safety Program, including but not limited to, the duties and responsibilities set forth in Rule 2132 of the Racetrack Safety Program. Any person named to replace the individual named as Medical Director herein shall possess the qualifications set forth in Rule 2132(a) Racetrack Safety Program.

¹ The Medical Director position is optional for the Commission to furnish. If the Commission does not elect to name and appoint a qualified individual, then the applicable jurisdiction can utilize the Authority’s Medical Director program.

2. Safety Director. The **Commission/Executive Director of the Commission** names and appoints _____ as Safety Director of the State (the “Safety Director”). The Parties agree that the Safety Director shall carry out the duties and responsibilities of the Safety Director set forth in the Racetrack Safety Program, including but not limited to, the duties and responsibilities set forth in Rule 2131 of the Racetrack Safety Program. Any person named to replace the individual named as Safety Director herein shall possess the necessary qualifications to perform the duties and responsibilities set forth in Rule 2131 of the Racetrack Safety Program.
3. Stewards. The **Commission/Executive Director of the Commission** agrees that the stewards [**tailor to specific jurisdictions**] shall enforce the safety regulations set forth in the Rule 2200 Series of the Racetrack Safety Program. The Commission further agrees that the stewards shall also serve in the adjudicatory capacities set forth in the Rule 8000 Series (the Enforcement Rules).
4. Regulatory Veterinarian. The **Commission/Executive Director of the Commission** names and appoints _____ as Regulatory Veterinarian of the State (the “Regulatory Veterinarian”). The Parties agree that the Regulatory Veterinarian shall carry out the duties and responsibilities of the Regulatory Veterinarian set forth in the Racetrack Safety Program, including but not limited to, the duties and responsibilities set forth in Rule 2135 of the Racetrack Safety Program. Any person named to replace the individual named as Regulatory Veterinarian herein shall possess the qualifications set forth in Rule 2134(a) Racetrack Safety Program.
5. Emergency Warning Systems. The Commission agrees to inspect and approve the racetrack emergency warning systems in use on all racing and training tracks at each racetrack under the jurisdiction of the Commission, as set forth in Rule 2153 of the Racetrack Safety Program. The Commission further agrees to provide the Authority with periodic reports concerning the racetrack emergency warning systems on forms prescribed by the Authority.
6. Trainers Test. The Commission agrees to require the use of the Authority’s uniform National Trainers Test, as set forth in Rule 2181. Upon request by the Authority, the Commission shall provide documentation of satisfactory completion of the test for individual licensees.
7. Training Opportunities. The Commission agrees to identify existing, or provide locally, training opportunities for all Racetrack employees having roles in Racetrack safety or direct contact with Covered Horses, as set forth in Rule 2182 of the Racetrack Safety Program. The Commission further agrees that the Authority may request and review information pertaining to the training opportunities available to racetrack employees as specified in Rule 2182 of the Racetrack Safety Program.

8. Testing Program. The Commission agrees to maintain a testing program for drugs and alcohol for Jockeys, as set forth in Rule 2191 of the Racetrack Safety Program. The Commission further agrees to submit the protocol for the testing program to the Authority. Upon request by the Authority, the Commission shall share with the Authority information pertaining to positive tests of individual Jockeys and shall make periodic reports concerning the testing program as directed by and on forms prescribed by the Authority.

9. Concussion Management. The Commission agrees to implement a concussion management program for Jockeys, as set forth in Rule 2192 of the Racetrack Safety Program. The Commission further agrees to submit the protocol for the concussion management program to the Authority.

10. Scope of Work. The scope of work and reporting obligations under this Agreement are those set forth in the Rule 2000 Series, "Racetrack Safety and Accreditation." The Commission agrees to provide performance metrics in reasonable detail and at reasonable intervals on forms to be prescribed by the Authority.

11. Term and Termination.

(a) This Agreement shall be effective (the "Effective Date") on the first business day following the full execution of this Agreement by the Parties, or if further approvals are required under applicable state law, the later to occur of: (i) the approval of this Agreement by the Commission, and (ii) the approval of any other state agency, commission, board or authority for which approval is required under state law. If the Effective Date does not occur on or before July 1, 2022, this Agreement shall terminate and be of no force or effect. If the Effective Date does occur on or before July 1, 2022, the agreement shall terminate upon the effective date of the Authority's Anti-Doping and Medication Protocol.

(b) This Agreement may be terminated by either Party upon one hundred twenty (120) days written notice.

(c) If either Party defaults in a material obligation under this Agreement and continues in default for a period of 30 days after written notice of default is given to it by the other Party, the other Party may terminate and cancel this Agreement, immediately upon written notice of termination given to the defaulting Party.

12. Notices. All notices required to be provided hereunder shall be in writing and shall be deemed delivered if (a) sent by facsimile, upon confirmation of faxing, (b) if sent by overnight courier, by the date after mailing, (c) if by hand delivery, upon actual receipt or (d) if by certified mail, return receipt requested and postage prepaid, on the third business day after deposit in the mails, to the addressee set forth below (with a copy emailed to the email addresses set forth below) or at such other location as such Party notifies the other pursuant to this provision.

If to the Authority:

401 West Main Street, Unit 222
Lexington, Kentucky 40507
Attention: Lisa Lazarus
lisa.lazarus@hisaus.org

with a copy to:

Ransdell Roach & Royse PLLC
176 Pasadena Drive, Building One
Lexington, Kentucky 40502
Attention: John C. Roach
john@rrrfirm.com

If to Commission:

Attention: _____

with a copy to:

Attention: _____

13. Severability. If any part of this Agreement is determined to be invalid or illegal by any court or agency of competent jurisdiction, then that part shall be limited or curtailed to the extent necessary to make such provision valid, and all other remaining terms of this Agreement shall remain in full force and effect.

14. Amendment and Waiver. This Agreement may be modified or amended only in a writing signed by both Parties. A Party's failure to act hereunder shall not indicate a waiver of its rights hereto. No waiver of any provision of this Agreement shall be valid unless made in writing and signed by the waiving Party. The failure of either Party to require the performance of any term or obligation of this Agreement or the waiver by either Party of any breach of this Agreement shall not prevent any subsequent enforcement of such term and shall not be deemed a waiver of any subsequent breach.

15. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. Any

signature page delivered by facsimile, telecopy machine, portable document format (.pdf) or email shall be binding to the same extent as an original

16. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, between the Parties with respect to the subject matter hereof.

17. Headings; Interpretation. The headings in this Agreement have been included solely for ease of reference and shall not be considered in the interpretation or construction of this Agreement. All references herein to the masculine, neuter or singular shall be construed to include the masculine, feminine, neuter or plural, as appropriate.

18. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the state of Kentucky, without regard to its conflicts of laws principles.

[signature page follows]

IN WITNESS WHEREOF, the undersigned have executed this Services Agreement as of date first written above.

HORSERACING INTEGRITY AND SAFETY AUTHORITY, INC.

By: _____
Name: _____
Title: _____



By: _____
Name: _____
Title: _____

TITLE 16	ECONOMIC REGULATION
PART 8	TEXAS RACING COMMISSION
CHAPTER 309	RACETRACK LICENSES AND OPERATIONS
SUBCHAPTER A	RACETRACK LICENSES
DIVISION 1	GENERAL PROVISIONS
RULE § 309.13	SUPPLEMENTAL FEE

16 Tex. Admin. Code § 309.13. Supplemental Fee.

~~(a) Purpose of Fee. The fee in this section is necessary to pay the Commission's costs to procure an independent audit or review of the economy, efficiency and effectiveness of its operations, as requested by the racing industry, and the fees collected under this section shall only be used for this purpose.~~

~~(b) Amount of Fee. In addition to the license fees prescribed by §309.8, Racetrack License Fees, a licensed racing association shall pay a supplemental license fee to the Commission in an amount that equals the total cost of the audit or review, not to exceed \$200,000, divided by the number of racing associations in good standing in Texas.~~

~~(c) The supplemental fee shall be due 15 days after the Commission sends an invoice to the association.~~

~~(d) Refunds. In the event that the total amount the Commission collects under this section exceeds its actual costs, any amount remaining shall be refunded to paying associations in equal shares not later than 60 days after the date the Commission's final payment for the audit or review is due. (Added eff. 3/6/18; (a), (b), (d) amended eff. 10/30/18)~~

PUBLIC COMMENTS

Virginia S. Fields, General Counsel for the Texas Racing Commission at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 303 GENERAL PROVISIONS
SUBCHAPTER B POWERS AND DUTIES OF THE COMMISSION
RULE § 303.42 APPROVAL OF CHARITY RACE DAYS

The Texas Racing Commission (Commission) proposes amendments to an existing rules 16 TEX. ADMIN. CODE (TAC), Chapter 303, § 303.42(d), Approval of Charity Race Days. These amendments are referred to as “proposed rule amendments” and are necessary to broaden charity opportunities to participate in charity race days. The proposed rule amendments will be presented to the Texas Racing Commission at its Commission meeting on April 13, 2022, by staff recommendation. The rule amendment is proposed by the Commission Vice-Chair, Connie McNabb, DVM.

<rule>

16 TAC § 303.42, Approval of Charity Race Days

(a)-(c)(No change.)

(d) ~~At least one~~ One of the charity days must be conducted for a charity that directly benefits the persons who work in the stable or kennel area of the racetrack. ~~At least one of the charity days must be conducted for a charity that primarily benefits research into the health or safety of race animals.~~ At least one of the charity days shall be open to any charity that meets the requirements of section (b)(1)-(4) above.

PUBLIC COMMENTS

All comments or questions regarding the proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Virginia S. Fields, General Counsel Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 301 DEFINITIONS

TITLE 16 ECONOMIC REGULATION
PART 8 TEXAS RACING COMMISSION
CHAPTER 319 VETERINARY PRACTICES AND DRUG TESTING

The Texas Racing Act, Tex. Occ. Code § 2034.001(c), states that the commission's rules must require state-of-the-art testing methods and that testing may: (1) be prerace or postrace as determined by the commission; and (2) be by an invasive or noninvasive method. The Texas Racing Act, Tex. Occ. Code § 2034.001(d) also provides for the commission to adopt rules relating to the drug testing of license holders.

The proposed rule amendments were presented to the Texas Racing Commission Health & Safety subcommittee at open meetings held on February 2, 2022, and March 8, 2022, for implementation of hair testing in addition to current serum and urine testing of racehorses and occupational licensees, such as jockeys. The subcommittee did not make any changes to the proposed rule amendments and recommended the proposed rule amendments be placed on the Texas Racing Commission agenda for publication in the Texas Register.

<rule>

16 TAC § 301.1. Definitions

(74) Specimen--a bodily substance, such as hair, blood, urine, ~~or~~ saliva, or other bodily tissues taken for analysis from a horse, greyhound, or individual in a manner prescribed by the Commission.

<rule>

16 TAC § 319.3, Medication Restricted

(a)-(e)(No change.)

(f) Except as provided in paragraph (1) of this subsection, ~~clenbuterol and albuterol~~ beta-agonists are prohibited substances and shall not be administered to a horse participating in racing at any time.

(1) A horse may only be administered ~~clenbuterol or albuterol~~ beta-agonists if:

(A) (No change.)

(B) within 24 hours of initiating treatment, the trainer or owner has submitted to the Commission a form prescribed by the Commission and signed by the attending veterinarian, indicating:

(i) – (ii) (No change.)

(iii) the name of the attending veterinarian;

(iv) that the attending veterinarian has personally examined the horse and made an accurate clinical diagnosis justifying the prescription;

(v) – (vi) (No change.)

(C) only FDA-approved ~~clenbuterol or albuterol~~ beta-agonists that is are labeled for use in the horse is prescribed and dispensed.

(2) A horse that has been administered ~~clenbuterol or albuterol~~ beta-agonists under paragraph (1) of this subsection shall be placed on the Veterinarian's List for a period ending not less than 30 days after the last administration of the drug as prescribed, subject to a negative test for ~~clenbuterol, albuterol, or any other~~ beta-agonist drugs before being removed from the list.

(A) – (B) (No change.)

(C) The collected specimens must not have any detectable level of ~~clenbuterol, albuterol, or any other~~ beta-agonist drugs. If no detectable level of ~~clenbuterol, albuterol, or any other~~ beta-agonist drug is present, the horse shall be removed from the Veterinarian's List. If a detectable level of ~~clenbuterol, albuterol, or any other~~ beta-agonist drug is present, then the horse shall remain on the Veterinarian's List until such time that a test specimen reveals no detectable level of ~~clenbuterol, albuterol, or any other~~ beta-agonist drug.

(D) (No change.)

<rule>

16 TAC § 319.301, Testing Authorized

(a) The stewards and racing judges may require a specimen of hair, urine, blood, saliva, tissue or other bodily substance to be taken from a race animal for the purpose of testing for the presence of a prohibited drug, chemical, or other substance.

(b) (No change.)

(c) A person is not entitled to a purse until drug testing has been completed and the executive ~~secretary~~ director has cleared the race for payment.

PUBLIC COMMENTS

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Virginia S. Fields, General Counsel Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.



TEXAS RACING COMMISSION
P.O. Box 12080
Austin, Texas 78711-2080
512-833-6699

March 17, 2022

Rob Werstler
Executive Director
Texas Quarter Horse Association
14 N. Main Street, Suite B
Elgin, TX 78621

RE: TQHA Requests for Allocation of HIEA Funds

Dear Mr. Werstler:

In accordance with Commission Rule 303.321(g), the following requests for allocation of funds from the Horse Industry Escrow Account are approved.

- The Texas Festival Quarter Horse Show – April 21-24, 2022 (\$10,000)
- Yearling Sale – July 29-30, 2022 (\$45,000)

Sincerely,

A handwritten signature in blue ink that reads "Amy F. Cook". The signature is fluid and cursive.

Amy F. Cook
Executive Director

c: Curley L. Trahan, HIEA Program Administrator



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Paint Horse Breeders' Associaton

Mailing Address: PO Box 895 Street Address

Decatur TX 76234 USA City State Zip Code County

Physical Address: 510 W Walnut St Street Address

Decatur TX 76234 USA City State Zip Code County

Section B. Contact Personnel

(1) Name of Primary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Lex Smurthwaite Mr. Dr. Ms. Other

Position Title: Executive Secretary

Email Address: lex@tphba.com

Phone: (817) 781 - 5980 Ext. Alt #:() -

(2) Secondary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Pancho Villarreal Mr. Dr. Ms. Other

Position Title: President

Email Address: panchov@gvlaw.net

Phone: (956) 227 - 2431 Ext. Alt #:() -

(3) Name of Authorized Official *(This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)*

Full Name: Lex Smurthwaite Mr. Dr.
First Last Ms. Other _____

Position Title: Executive Secretary

Email Address: lex@tphba.com

Phone: (817) 781 - 5980 Ext. _____ Alt #:(_____) - _____

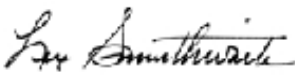
Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct;
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions;
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TxRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TxRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TxRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: (Person listed in Section B.3)

x		3/22/2022
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Signature **Date**

This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)



TEXAS RACING COMMISSION

1 of 1

FOR MULTIPLE PROPOSALS, PLEASE NUMBER THEM SEQUENTIALLY HERE (i.e. 1 of 2, 2 of 2, etc.)

APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNT

PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form H1EA-1, General Information)

APPLICANT NAME: TEXAS PAINT HORSE BREEDERS' ASSOCIATION

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): The Cowgirl Gathering

Event Date(s) or Approximate Date(s): November 11-13, 2022

Total Amount Requested For this Event: \$130,000

When Are Funds Needed? *If funding can be provided in multiple phases, please explain.*

Funds needed by July 15, 2022. Approval of funds needed by May 19, 2022 for marketing and promotion purposes.

Project Background

Project Summary

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved as a result of this funding.

The Cowgirl Gathering is a celebration in the heart of Fort Worth, designed to showcase spectacular, inspirational women from all walks of life who embody the spirit of the American Cowgirl. Whether you are a competitor or just want to experience the spark of that cowgirl essence, the Cowgirl Gathering is your event. This weekend takeover of the historic Fort Worth Stockyards highlights cowgirls' skills in breakaway roping, team roping and barrel racing, while also showcasing exhilarating and engaging female speakers. It's her heart and soul that makes a cowgirl who she is—determined and fierce and ready to take on the world—and we're excited to showcase that spirit in the heart and soul of Cowtown this November.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

The third annual Cowgirl Gathering will again be managed by the American Paint Horse Association (APHA). It is important that APHA plan and execute a manageable number of activities over this (three day) period, to build on the enthusiasm and momentum for future

editions of "Cowgirls and the horses they rode in on." For the 2022 event, the planned activities during the festivities include:

- Equine and Western Industry female expert summit, educational TED talk-type speakers' series (Cowboy Channel Studios - November 11 & 12)
- \$30,000 Added 5D Barrel Racing Competition (Stockyards Coliseum, November 13)
- \$21,000 Added 5D Breakaway Roping Competition paired with WCRA and the American Rodeo (Stockyards Coliseum, November 12)
- \$10,000 Added All-Girl Team Roping paired with the BFI (Stockyards Coliseum, November 11)
- Opportunities for Equine Programs to promote their programs to Stockyards guests to drive engagement (Fort Worth Stockyards)

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

The economic impact of this event based on 2021 numbers will bring at least 1,700 horses at \$350 per horse = \$595,000 equine impact. 1700 horses at 3 people per horse at \$100 + 10,000 spectators at \$35 = \$860,000 economic impact.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Steven Hayes, APHA's Chief Marketing Officer will oversee the duties and responsibilities of the event. Each event will be treated as an event within an event, all working under The Cowgirl Gathering umbrella. Each event will be precisely planned and executed to insure the best production.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements;*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation;*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities;*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account;*

- (6) expenses related to litigation;
- (7) professional association fees or dues for the breed registry or an individual;
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or
- (9) fundraising.

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$25,000.00
Purse Supplements/Prizes	\$65,000.00
Advertising	\$11,000.00
Donations (include most recent IRS Form 990 for any non-profit)	\$0.00
Other Direct Expenses (itemize below):	\$0.00
Contract Labor	\$14,000.00
Educational Speakers	\$15,000.00
	\$0.00
	\$0
Total Direct Costs	\$130,000.00
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	<u>\$130,000.00</u>

Event Production Costs (\$25000 total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Venue and Equipment Rental

Purse Supplements/Prizes (\$65,000 total) Provide a breakdown of purses/purse supplements, prizes, and Texas-bred supplements from HIEA funding.

- \$21,500 added 3D Breakaway Roping Competition paired with WCRA and the American Rodeo (Stockyards Coliseum, Saturday Nov. 13th).
- \$3,500 added 5D Paint Barrel Race Incentive Program (Sunday Nov. 14th)
- \$30,000 added 5D Barrel Racing Competition paired with the American Rodeo (Sunday Nov. 14th).

•\$10,000 added to the All-Cowgirl Team Roping Competition (Stockyards Coliseum, Friday Nov. 12, 2021)

Advertising (\$11,000 total) *Provide an explanation of advertising costs.*
Advertising with Magazine, Newspapers, Radio, TV and Social Media.

Donations (\$0 total) *For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.*

Other direct expenses – first category _Contract Labor_____ (\$14,000 total)
Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category _Educational Speakers_____ (\$16,000 total)
Provide a detailed description of any other category of direct expenses.
Equine and Western Industry female expert summit, educational TED talk-type speakers' series (Cowboy Channel Studios - November 11 &12)

Other direct expenses – third category _ _____ (\$0 total) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$0 total; may not exceed 5% of total) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Quarter Horse Association

Mailing Address: 14 N. Main Street Suite B Street Address

Elgin TX 78621 Bastrop City State Zip Code County

Physical Address: same Street Address

City State Zip Code County

Section B. Contact Personnel

(1) Name of Primary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Rob Werstler Mr. Dr. First Last Ms. Other

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: (512) 468 - 5566

(2) Secondary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Scott Sherwood Mr. Dr. First Last Ms. Other

Position Title: Director of Racing

Email Address: ssherwood@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: () -

(3) Name of Authorized Official (This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)

Full Name: Rob Werstler Mr. Dr.
First Last Ms. Other _____

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. _____ Alt #: (512) 468 - 5566

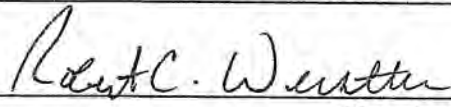
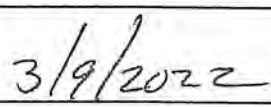
Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct.
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions.
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TXRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TXRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TXRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: (Person listed in Section B.3)

x		
	Signature	Date

This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)



TEXAS RACING COMMISSION

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APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNT

PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)

(Must be accompanied by Form HIEA-1, General Information)

APPLICANT NAME: Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): 2022 QH Meet @ RETAMA - Accredited Texas Bred (ATB) Owners, Breeders & Stallion Owner Awards**Event Date(s) or Approximate Date(s):** 6/30-8/20**Total Amount Requested For this Event:** \$353,000**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
August 1, 2022**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

TQHA proposes increasing incentive money to the owners, breeders and stallion owners of accredited Texas-bred horses that finish first, second or third in a Texas pari-mutuel race during the 2022 Retama Park QH meet (June 30-August 20).

These funds will supplement the current accredited Texas-bred incentive award payouts, mandated by the Texas Racing Act Sec. 2030.004.

In an effort to increase national exposure and increase simulcast handle to these races, TQHA will partner with Retama Park with promotions geared toward American Quarter Horse racing for increased media exposure and marketing during the meet to attract patrons.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Texas-bred horses finishing within the top 3 places in a Texas pari-mutual race at Retama Park will be eligible for the following enrollment incentive breakdown:

\$350,000 ATB Awards:

40% Owner Award
40% Breeder Award
20% Stallion Owner Award

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

By increasing Accredited Texas Bred awards to owners, breeders, and stallion owners of Accredited Texas Bred horses, Texas will be in a much better position to be able to compete with surrounding states where state bred awards are supplemented by Slot machine revenue.

The addition of the Accredited Texas Bred Owner, Breeder and Stallion Owner Awards will incentivize the increase of ATB horses over the next breeding cycle and beyond. The increased ATB awards will attract new breeders to Texas as well as see the return of many breeders who left the state for larger purses. Texas will benefit from the direct and indirect costs related to participate in the Agriculture and Equine industry, in particular rural Texans. Funds will be put back into the Texas economy through such purchases as horse feed, bedding, equipment, grooming products, insurance, facility expenses, veterinary services, farrier services, and labor, fuel etc.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Rob Werstler, Executive Director of the Texas Quarter Horse Association along with Scott Sherwood, Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*

- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.
- (6) expenses related to litigation.
- (7) professional association fees or dues for the breed registry or an individual.
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or
- (9) fundraising.

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and
- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$350,000.00
Race Award Supplements/Prizes	\$
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$3,000.00
	\$
	\$
	\$
	\$
Total Direct Costs	\$353,000.00
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$353,000.00

Event Production Costs (\$ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$ total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

Advertising (\$ _____ **total**) *Provide an explanation of advertising costs.*

Donations (\$ _____ **total**) *For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization's most recent IRS Form 990.*

Other direct expenses – first category _____ (**\$3000 total**) *Provide a detailed description of any other category of direct expenses.*

Applied Information Sciences (AIS) -Software for ATB pay-out specific to HIEA grant & reporting.

Checks, envelopes, IRS Reporting, copier paper, postage for checks; postage for letters to ATB recipients who need additional paperwork to complete transaction such as SS#, etc

Other direct expenses – second category _____ (**\$ _____ total**)
Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _____ (**\$ _____ total**) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$ _____ **total; may not exceed 5% of total**) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Quarter Horse Association

Mailing Address: 14 N. Main Street Suite B

Street Address

Elgin

TX

78621

Bastrop

City

State

Zip Code

County

Physical Address: same

Street Address

City

State

Zip Code

County

Section B. Contact Personnel

(1) Name of Primary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Rob Werstler

First

Last

Mr. Ms. Dr. Other

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: (512) 468 - 5566

(2) Secondary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Scott Sherwood

First

Last

Mr. Ms. Dr. Other

Position Title: Director of Racing

Email Address: ssherwood@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: () -

(3) Name of Authorized Official (This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)

Full Name: Rob Werstler Mr. Dr.
First *Last* Ms. Other _____

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. _____ Alt #: (512) 468 - 5566

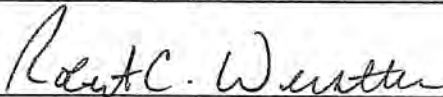
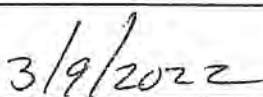
Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct.
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions.
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TXRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TXRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TXRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: (Person listed in Section B.3)

x		
	Signature	Date

This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)



TEXAS RACING COMMISSION

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APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNTPROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)
(Must be accompanied by Form HIEA-1, General Information)**APPLICANT NAME:** Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): Retama Stakes Program**Event Date(s) or Approximate Date(s):** June 30-August 20**Total Amount Requested For this Event:** \$325,000**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*
June 15**Project Background****Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

This funding will allow Retama Park to offer a more lucrative stakes program which will attract more competitive horses and increase attendance and handle. The increased stake amounts will allow Retama to sell their simulcast signal to an increased number of outlets, which will increase handle.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Improving stakes program with an emphasis on Texas-bred races through signature race days:
\$200,000 to the TQHA Sales Futurity
\$75,000 to the Sires' Cup Futurity
\$50,000 to the Sires' Cup Derby

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

The primary driver of all events is to bring exposure to Texas racing. Fiscal measurements for all proposed elements will be demonstrated in the racing product via entries and handle

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Rob Werstler, Executive Director of the Texas Quarter Horse Association along with Scott Sherwood, Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

Pursuant to 16 T.A.C. Section 303.322(b), the following types of costs may not be paid with funds allocated from the account:

- (1) capital improvements.*
- (2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation.*
- (3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities.*
- (4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations.*
- (5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account.*
- (6) expenses related to litigation.*
- (7) professional association fees or dues for the breed registry or an individual.*
- (8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or*
- (9) fundraising.*

Pursuant to 16 T.A.C. Section 303.322(c), the following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the total allocated to the breed registry or of the approved allocation for any event, if specifically approved by the Commission:

- (1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and*

(2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Race Award Supplements/Prizes	\$325,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$325,000.00

Event Production Costs (\$ total) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$325000 total) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

- \$200,000 to the TQHA Sales Futurity
- \$75,000 to the Sires” Cup Futurity
- \$50,000 to the Sires” Cup Derby

Advertising (\$ total) Provide an explanation of advertising costs.

Donations (\$ total) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization’s most recent IRS Form 990.

Other direct expenses – first category _ _____ (\$ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – second category _ _____ (\$ total) Provide a detailed description of any other category of direct expenses.

Other direct expenses – third category _____ (\$ _____ **total**) *Provide a detailed description of any other category of direct expenses.*

Administrative Expenses/Capital Assets (\$ _____ **total; may not exceed 5% of total**) *Provide a detailed description of administrative expenses such as personnel costs or other direct budgeted costs associated with the project. For each employee receiving a portion of this funding as a wage or stipend, indicate their title, estimated time budgeted to the event, and the amount.*



TEXAS RACING COMMISSION

FORM HIEA-1

APPLICATION FOR BREED REGISTRY FUNDING FROM THE HORSE INDUSTRY ESCROW ACCOUNT

GENERAL INFORMATION

(Must be accompanied by at least one completed Form HIEA-2, Project Narrative)

Section A. Organization Information

Breed Registry Name: Texas Quarter Horse Association

Mailing Address: 14 N. Main Street Suite B

Street Address

Elgin TX 78621 Bastrop
City State Zip Code County

Physical Address: same

Street Address

City State Zip Code County

Section B. Contact Personnel

(1) Name of Primary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Rob Werstler
First Last
Mr. Dr.
Ms. Other

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: (512) 468 - 5566

(2) Secondary Program Contact (This person can answer day-to-day questions about the organization and the project.)

Full Name: Scott Sherwood
First Last
Mr. Dr.
Ms. Other

Position Title: Director of Racing

Email Address: ssherwood@tqha.com

Phone: (512) 458 - 5202 Ext. Alt #: () -

(3) Name of Authorized Official (This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the funding agreement for signature.)

Full Name: Rob Werstler Mr. Dr.
First *Last* Ms. Other _____

Position Title: Executive Director

Email Address: rwerstler@tqha.com

Phone: (512) 458 - 5202 Ext. _____ Alt #: (512) 468 - 5566

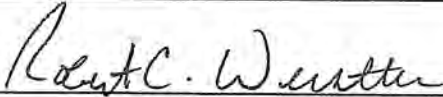
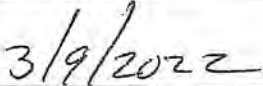
Section C. Certifications

By signing below, applicant and its authorized official (the person listed in Section B.3):

- (1) certify that all information provided in connection with this application is true and correct.
- (2) acknowledge that any misrepresentation or false statement made by applicant or an authorized agent of applicant in connection with this application, whether intentional or not, will constitute grounds for denial of this application and may be the subject of substantial civil and/or criminal liability and sanctions.
- (3) acknowledge that acceptance of funds in connection with this application acts as acceptance of the authority of the Texas Racing Commission (TXRC) or any successor agency and the State Auditor's Office (SAO) or any successor agency to conduct an investigation in connection with those funds, and applicant further agrees to cooperate fully with TXRC or its successors and SAO or its successor in the conduct of the audit or investigation, including allowing TXRC and/or SAO to inspect applicant's premises and providing all records requested during the funding period and for at least five years after the funding is expended; and
- (4) certify that the authorized official is authorized to submit this application and to make the preceding certifications and acknowledgements on behalf of applicant.

Notice of Penalties: The penalty for knowingly making false statements or false entries, or attempts to secure money through fraudulent means, may include fines, incarceration, and/or forfeiture of funds.

Authorized Official: (Person listed in Section B.3)

x		
	Signature	Date

This application becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Texas Government Code, Sections 552.021, 552.023, and 559.004.)



TEXAS RACING COMMISSION

5 of 5

**APPLICATION FOR BREED REGISTRY FUNDING
FROM THE HORSE INDUSTRY ESCROW ACCOUNT****PROJECT NARRATIVE (USE A SEPARATE FORM FOR EACH EVENT)**

(Must be accompanied by Form H1EA-1, General Information)

APPLICANT NAME: Texas Quarter Horse Association

This form was developed to be completed electronically. Handwritten applications and/or narratives will not be accepted. Click the grey text boxes to type responses. A maximum of 6 pages may be used to fully respond.

Project Title (Event Name): Texas Summer Showdown**Event Date(s) or Approximate Date(s):** July 29, 2022**Total Amount Requested For this Event:** \$240,000**When Are Funds Needed?** *If funding can be provided in multiple phases, please explain.*

July 1, 2022

Project Background**Project Summary**

Please provide a summary of the event for which funding is sought and the project(s) that will be achieved because of this funding.

The Texas Summer Showdown is an event similar to events in other states where state bred American Quarter Horses are showcased. This event is not only a marketing tool for Texas breeders but also an event where Texas owners and breeders are encouraged to keep their horses racing in Texas.

Project Description

Provide a detailed description of the project including activities to be supported with funds from the Account, timelines of each activity, and key milestones.

Texas Summer Showdown-One night of Stakes races showcasing Accredited Texas-bred's held at Retama Park. The goal of the project is to incentivize breeding, owning and racing Accredited Texas-Bred Quarter Horses, while attracting new owners and breeders as well as breeding stallions & mares that left Texas for other states.

\$50,000 to the TQHA 250 Stakes

\$60,000 to the TQHA Classic

\$50,000 to the TQHA 550

\$50,000 to the Benny Pennington Memorial Stakes

\$30,000 to the Jones Bloodstock Stakes

Anticipated Project Results/Economic Impact on the Horse Industry

Provide a detailed explanation of the anticipated economic impact on the horse industry and any other expected results and how they will be measured.

Due to this event, TQHA has seen an increase in the number of Accredited Texas-Bred Racing Stock. We have also seen an increase in horses purchased by new owners in order to race in Texas. We also expect Texas foaled horses that left Texas to race in surrounding states to return to race in Texas. The expected results will be measured by the number of starters compared to previous years, as well as increased attendance and handle. Also, direct and indirect costs of more horses and related agriculture businesses in the State.

Project Oversight

Who will oversee the project activities? Include name and title of the person. How will oversight be performed? What steps will take place to ensure the project is achieved as outlined?

Project oversight will be provided by Scott Sherwood, TQHA Director of Racing.

Reports will be provided to the TQHA Board of Directors, TQHA's independent auditing firm and TRC's Quarterly & Annual Performance Measures.

Project Budget

This section should reflect the total budget. Provide a general description of all costs along with a justification for each item. The explanations should focus on how each budget item is required to achieve the project. Be sure to itemize the request with quantities and individual estimated costs.

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- (2) the purchase of capital assets.

EXPENSE CATEGORIES	AMOUNT
Event Production Costs	\$
Race Award Supplements/Prizes	\$240,000.00
Advertising	\$
Donations (include most recent IRS Form 990 for any non-profit)	\$
Other Direct Expenses (itemize below):	\$
	\$
	\$
	\$
	\$
Total Direct Costs	\$
Administrative Expenses/Capital Assets (may not exceed 5% of project total)	\$
Total	\$240,000.00

Event Production Costs (\$ **total**) For events to be produced or sponsored by the breed registry, provide a breakdown of the event production expenses.

Race Award Supplements/Prizes (\$ **total**) Provide a breakdown of race awards/race award supplements, prizes, and Texas-bred supplements from HIEA funding.

- \$50,000 to the TQHA 250 Stakes
- \$60,000 to the TQHA Classic
- \$50,000 to the TQHA 550
- \$50,000 to the Benny Pennington Memorial Stakes
- \$30,000 to the Jones Bloodstock Stakes

Advertising (\$ **total**) Provide an explanation of advertising costs.

Donations (\$ **total**) For any donation, state the recipient(s), amount for each recipient, and an explanation of the purpose of the donation. For any 501(c)(3), provide the organization’s most recent IRS Form 990.

Other direct expenses – first category _____ (\$ _____ **total**) *Provide a detailed description of any other category of direct expenses.*

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